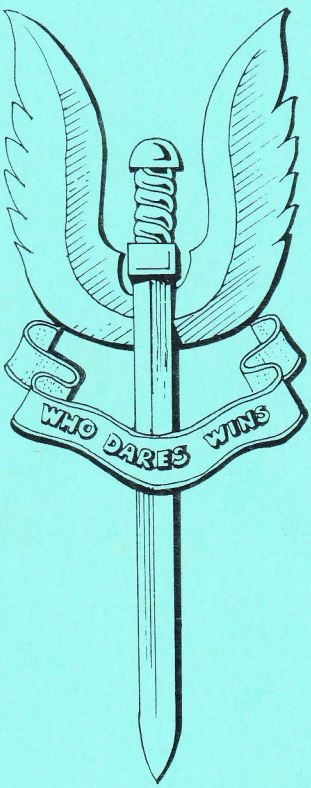
THE NAIRAC AFFAIR



Mícheál Ó Cuinneagáin

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THE NAIRAC AFFAIR

Mícheál Ó Cuinneagáin

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A brief examination of some of the events in South Armagh and North Louth in the period 1976 - 1977 involving Captain Nairac of the 22nd Special Air Service (SAS) Regiment. This Regiment caused untold suffering on both sides of the Irish Border.

The unjust conviction of two young Catholic men, from South Armagh, for murder, bears testimony to the evil influence of Captain Nairac and his fellow SAS men. This evil appears to have permeated every sector of the legal process North and South.

THANKS

Two people who encouraged me in the slow painstaking task of exposing the injustices in the trial of John Anthony McCooey and Liam Townson had passed to their eternal reward before this story was finished. They were Frank Maguire, MP. who died in March 1981, and who helped me in every way open to a Member of Parliament, and my mother, Isobella Cunningham who died in June 1981 and who by her prayers and encouragement helped me to persevere when things looked impossible.

Most of those who helped during my research requested that their names should not be published. With the exception of signed statements I have respected these requests. To each and every one I say:

Go Raibh Mile Mait Agat.

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INTRODUCTION

During research for my book "Monaghan County of Intrigue", I spent some time in the border area between Dundalk and Newry. While there I was told that a young man, Liam Townson, had been convicted for the murder of Captain Nairac and that he had no part in that deed. I was asked to help clear his good name and promised to work on his case after publication of the work in hand.

My first research, for the Townson case, was on newspaper reports of his trial, and I must admit that I had immediate doubts about his innocence. Once I began work on the ground, my doubts soon faded. The ordinary decent people of the district in which Townson was reared and worked soon convinced me of the enormity of the crime committed against him. This crime was committed, in the name of the people of Ireland, in the Special Criminal Court, Green Street, Dublin. Not alone did the real significance of the injustice inherent in Townson's conviction become obvious, but the hidden evil behind the trial of John Anthony McCooey for the Tullyvallen Orange Hall murders, became apparent to me. Also the unfolding of the intrigue and injustice in the McCooey conviction does much to explain and expose those responsible for the present evil in our land.

The names of men who signed statements or alleged statements while in police custody, and the names of persons included in those alleged statements, have been omitted and non-de-plumes inserted. Otherwise the extracts used are exact copies of the originals.

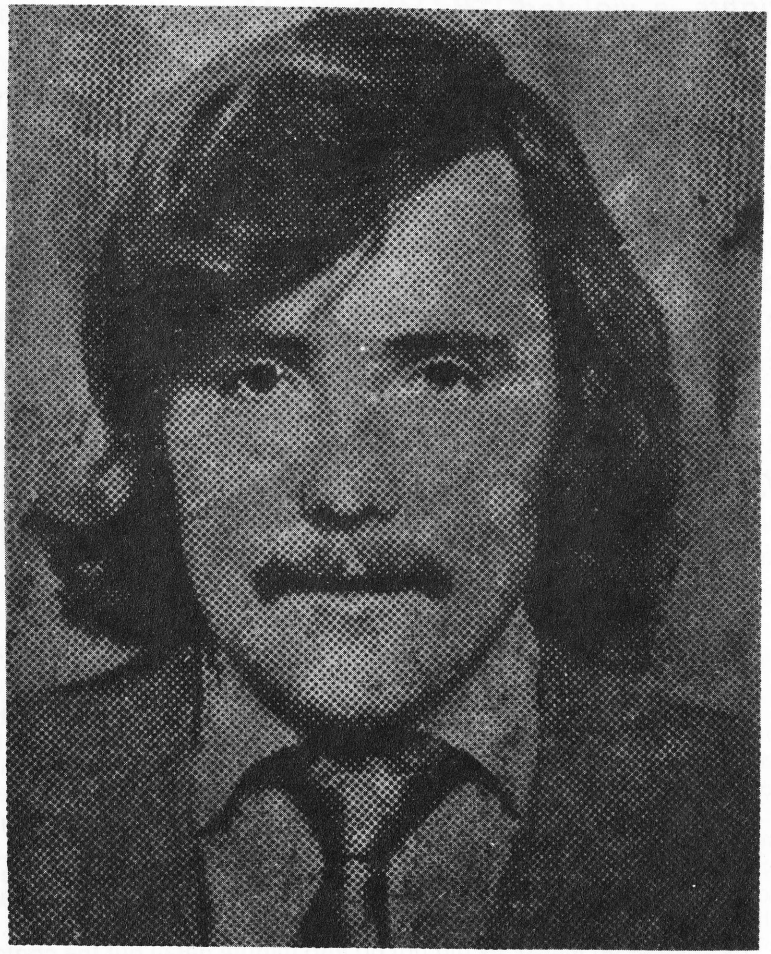
"Every human being has inalienable rights that must be respected. Each human community - ethnic, historical, cultural or religious - has rights which must be respected. Peace is threatened every time one of these rights is violated. The moral law, guardian of human rights, protector of the dignity of man, cannot be set aside by any person or group, or by the State itself, for any cause, not even for security or in the interests of law and order. The law of God stands in judgement over all reasons of State. As long as injustice exists in any of the areas that touch upon the dignity of the human person, be it in the political, social or economic field, be it in the cultural or religious sphere, true peace will not exist. The causes of inequalities must be identified through a courageous and objective evaluation, and they must be eliminated so that every person can develop and grow in the full measure of his or her humanity."

- Pope John Paul II at Drogheda 29th September 1979.

JOHN ANTHONY McCOOEY

During the autumn of 1979 I published a book, *"Monaghan County of Intrigue"*, in which the emphasis was on events in the present troubles having a Monaghan flavour. The last chapter dealt with a County Armagh youth, John Anthony McCooey, who had been convicted for the five Tullyvallen Orange Hall murders. Many people I met in Monaghan mentioned his conviction and they were adamant that McCooey had nothing to do with the event. Across the Border in the Cullyhanna area of County Armagh, I was told the same thing, and given details of McCooey's whereabouts on the fatal night. All were convinced of his innocence.

The chapter on McCooey did not go into minute detail but the contents were such that grave doubt was cast on the evidence presented at his trial. The then Member of Parliament for Fermanagh/South Tyrone, the late Frank Maguire M.P., made copies of the book available to government agencies in the hope that the authorities would look into the matter. He was met by stoney silence and indifference. In February 1980, he sent the last chapter to the Secretary of State, Mr. Atkins MP; asking him to review the sentence on McCooey in the light of the revelations in the chapter. It was some eight weeks before the Secretary of State, through his Minister of State, Mr. Michael Alison, replied. The letter went:-



John Anthony McCooey

Minister of State

NORTHERN IRELAND OFFICE
STORMONT CASTLE
BELFAST BT4 3ST
Tel. Belfast (0232) 63011
Telex 74272

Frank Maguire Esq MP
Main Street
LISNASKEA
Co Fermanagh

11 April 1980

Dear Frank.

You wrote to the Secretary of State on 12 February enclosing a copy of a chapter from Mr Michael Cunningham's book "Monaghan, County of Intrigue". The chapter is about the case of Mr John Anthony McCooey, who at the Belfast City Commission on 10 November 1977 was sentenced to life imprisonment for his part in the Tullyvallen Orange Hall murders. You asked the Secretary of State to enquire into the circumstances of that conviction, and that enquiries should be made into the particular allegation that Mr McCooey had been given prepared, false statements to sign. I am sorry that I have not replied to your letter before now, but I wanted to take time to study the transcript of the judgment given by the trial judge before he passed sentence.

I note from the transcript that at the trial, Counsel for the accused did not seek to suggest that the statements on which the prosecution's case largely rested had been made as a result of torture, or inhuman or degrading treatment. Indeed he specifically stated that no such allegation was being made, and asked no question of any witness; there was no appeal against any of the convictions.

In Mr Cunningham's book it is alleged that Mr McCooey signed the statement about the Tullyvallen Orange Hall murders after a long period without sleep during which he was beaten by the police officers concerned. It is also alleged that the prisoner decided to call no witnesses in his defence because he feared that anyone who testified on his behalf would be in danger; there is also a claim that Mr McCooey was elsewhere at

the time of the Orange Hall killings.

In any criminal trial it is for the defence to decide how their side of the case should be conducted. I am afraid that on the information available, which amounts to no more than a series of unsubstantiated allegations in a book written by someone who appears to have had no personal knowledge of the circumstances, I can find no grounds on which the Secretary of State would be justified in taking any action as regards any of Mr McCooey's convictions or the sentences imposed on him. If, however, any statement or statements are produced which support the claim that Mr McCooey was elsewhere at the time of the Tullyvallen murders, I would take steps to have enquiries made.

At the end of the chapter on Mr McCooey's case Mr Cunningham makes some serious allegations about ill-treatment of Mr McCooey at Maze Prison, where he is taking part in the protest against the refusal of special category status. I am satisfied that there is no truth whatever in any of these complaints.

Yours sincerely
Michael Alison

MICHAEL ALISON

Mr Maguire MP passed the reply on to me with a kind offer to give me all possible assistance in having the truth established and exposed. Mr. Alison explained the eight-week delay was due to his studying the judgement given by the trial judge. There was nothing in the book which questioned the judgement as an extract shows. "His (the Judge's) pronouncements were of a politcal nature, but his judgement, on the evidence presented, was predictable and in accordance with N.I. law" There was criticism of the manner in which defence performed and of the police and prison officials for their ill-treatment of the prisoner.

The chapter on McCooey was written to show how an innocent man was convicted for murders and of the type of treatment he received in Long Kesh camp. The most strident remark made in Mr. Alison's letter dealt with my claim that McCooey had been given savage beatings while in prison,

and his "I am satisfied that there is not truth whatever in any of these complaints" demands answering. The hospital records of patients are not available to me but I stand over my statement that McCooey was given a savage beating by named prison officers in Long Kesh a few days before a planned visit to the prison by the Catholic bishop of Derry, Dr. Edward Daly. Prisoners who saw and heard the beating were afraid that McCooey might have been fatally injured and requested that Dr. Daly visit McCooey. The Bishop did request a visit to him, but his request was not granted because the victim was at an outside hospital with injuries and was too ill for visitors. On returning to prison from the hospital McCooey filed a written complaint against named "screws", and his case was heard by a "visiting committee." They found against McCooey and inflicted further punishment for his "baseless allegations." I stand over my statement of fact — McCooey was the victim of brutal assaults by prison officers — and have no fear of the outcome of any enquiry carried out by a group from outside the United Kingdom into the entire episode. While this ill-treatment is serious, it is nothing compared to the conspiracy to pervert the course of justice so evident right through the entire McCooey case. In dismissing the contents of the case made for McCooey in "Monaghan, County of Intrigue," Mr. Allison wrote — "I am afraid that on the information available, which amounts to no more than a series of unsubstantiated allegations in a book written by someone who appears to have no personal knowledge of the circumstances, I can find no grounds on which . . . (it) would be justified in taking action . . .". These words were a personal slur on me and gave an insight into the treatment which I might expect from the N.I. Office.

REPLY TO MR. ALISON, M.P.

The last few days of August 1975 and the first days of September were, for the McCooey family circle, days not easily forgotten. Vincent McCooey of Dromore, Castleblaney, an uncle of Anthony McCooey, suffered a heart attack on Saturday 30th August and was removed to Monaghan County Hospital. He died the following morning. His remains were held in the hospital pending a decision about a post mortem, and were not removed until shortly after six o'clock on Monday evening. Among those present at the removal was John Anthony McCooey who had driven his widowed mother, sisters and brothers, to the hospital from their home on the Armagh-Monaghan border. The evidence given by police officers at McCooey's trial claimed instead that he was in a Dundalk public house at the same time on that day. With very little effort the statements which follow could have been obtained by McCooey's lawyers, and most of those who made the statements were prepared to go to Belfast and testify in person. Some of them did in fact go but were not called as witnesses by the defence.

Statement made by Mrs Mary McCooey, mother of the accused — "On Monday, the 1st September 1975, I left home at Drumlougher, Cullyhanna, at about five p.m. The car was driven by my son Anthony. Also in the car were the rest of the family. We arrived in Monaghan about 6 p.m. and went to the County Hospital. Anthony drove the car in the cortege from Monaghan to the church in Castleblaney. After leaving the church we went home calling for a short time at the wake-house in

Dromore. Anthony had some tea and left for McKeevers of Dorsey about 8 o'clock. Signed Mary McCooey.

Statement made by Mrs Maureen McCooey of Dromore, Castleblaney, Co. Monaghan. "I confirm that John Anthony McCooey drove the third car in the funeral cortege from Monaghan Hospital to St. Mary's Church, Castleblaney, for the 7.30 p.m. Mass on Monday 1st September '75." Signed Maureen McCooey (Widow of deceased).

Statement of Peter J. Carragher of Anamara, Cullyhanna, Co. Armagh. "I was in Castleblaney on Monday 1st September for the arrival of the funeral of Vincent McCooey of Dromore, Castleblaney. It was about 7 p.m. when it arrived in Castleblaney and I saw Anthony McCooey beside the hearse and inside in the church". Signed Peter J. Carragher. 12-6-80.

Statement of Gene Cumiskey of Monaghan. "I was present at Monaghan County Hospital on Monday 1st September 1975 for the removal of the remains of Vincent McCooey of Dromore, Castleblaney. I saw Anthony McCooey at the hospital and saw him drive off in the cortege. I also saw him at the church in Castleblaney when the coffin was being taken into the church." Signed Gene Cumisky.

Statement made by Brigid Flanagan of Bree, Castleblaney, Co. Monaghan. "On the evening of 1st September 1975 my husband (Pat), mother and myself attended the funeral of my brother (Vincent McCooey). My husband drove our car to Monaghan County Hospital arriving there before 6 p.m.; there I saw Anthony McCooey among the mourners. We left the hospital and followed the cortege to St. Mary's Church, Castleblaney for Mass. About half a mile from the church my husband joined many relatives and friends walking after the hearse. I then drove the car the remainder of the way." Signed B. Flanagan.

Statement of Patrick J. Flanagan of Bree, Castleblaney. "I went to the hospital on Monday 1st September 1975 for the removal of the remains of my brother-in-law Vincent McCooey, arriving there before 6 p.m. At the hospital I was beside the motor-hearse when the coffin was put into it. Anthony McCooey was beside me and I asked him how many passengers he had, and he said four or five of themselves. The cortege left soon after six, and when it came to 'Blaney it stopped and a large number got out of the cars and walked the last half mile or so to the church. After the prayers I went to the wake-house arriving before eight. Anthony asked me would I like a drink or a cup of tea. I asked him to get me tea, which he did. I did not see him again that night. The house was soon crowded and very warm, so I went out to my car where I fell asleep. My wife wakened me about eleven and said it was time to go home. On the way home I observed lights and helicopters in the sky to my right and I passed a remark that there must be trouble over there. It was on the News the next morning that I heard why all the activities were going on." Signed Patrick J. Flanagan.

From these statements it is clearly established that Anthony McCooey was at the removal of the remains from Monaghan Hospital. There was some confusion about the times different mourners arrived at the wake-house. Some mentioned the priest saying the rosary while others said he said Mass. The custom of the arrival of the coffin at the Church of St. Mary in the evening is to say the rosary. On the first Monday of each month there is also an evening Mass at 7.30 for members of the Sacred Heart Confraternity. On the night in question some mourners, not aware that a Mass was to follow, left the church when the priest went into the sacristy

to vest. This explains the arrival of some mourners at the wake-house shortly after 7.30 p.m.

For the next four hours or so the whereabouts of Anthony McCooey were not as stated in the "Book of evidence." After leaving the house in Dromore he went home where his mother got out of the car. He went to Cullyhanna and I take up the statement of Peter Keenan of Cullyhanna, Co. Armagh — "On Monday night the 1st September 1975 I was in the house after coming home from work when Anthony McCooey blew the horn of his car. I went out and got into the car. We were going to McKeevers, as we always did on a Monday night, to discuss the weekend. When we arrived at McKeevers it was about 8 p.m.; most of the McKeevers were there. We sat talking about the weekend for a while, and then a game of football got started in the garden. We all went out and joined in, but Anthony never played football. He stood talking to Peter McKeever at the door of the house. They then went into the house, and after a while Mrs McKeever called the rest of us in for tea.

About 11.30 p.m. Anthony said he was going to his late uncle's house as he wanted to make an appearance at the wake-house. Peter McKeever told us to hold on and hear the Late Night News, which we did. Everyone was stunned to silence when we heard about the murders in the Orange Hall. The first to speak was Anthony; he said there would be reprisals and it would be the likes of him and his mother, living in desolate areas, who would suffer. After discussing the murders we left McKeevers at 12.05 or so. We expected to be stopped at army or police check-points, but there were none. We were surprised. He dropped me off at the gate to the house, and went on to the wake-house." Signed Peter Keenan.

A statement made by Peter McKeever of Drumalt Road, Dorsey, Newtownhamilton, Co. Armagh, on behalf of his family supports the one made by Peter Keenan. "On Monday night 1st September 1975 Anthony McCooey and Peter Keenan came to visit my house at 8 p.m. approx. Present in the house were myself, my wife, my sons Patrick, Peadar, Bernard and Michael, also my married daughter Eileen and her husband Seamus Traynor of Crossmaglen. The boys were playing football and weight-lifting in the garden. My wife made tea around 11 o'clock and we talked about Vincey McCooey's death (Anthony's uncle). Anthony and Peter Keenan were on their way out when the 11.45 news headlines told of the Tullyvallen Orange Hall deaths. They stayed on and talked about the deaths. Anthony and Peter left about 12.15 a.m." Signed Peter McKeever.

After dropping Keenan the accused went to the wake-house, arriving around 12.30 and one of the first people he saw was Gabriel McCole. Gabriel was the son of a member of the Gardai in Castleblaney, and remembers seeing Anthony in the house. Time has eroded some of the details of the night but he remains in no doubt that the accused was there.

The widespread belief that Anthony McCooey was and is innocent is held by more than his Catholic neighbours in the border area in which he lived. During my research I visited Billy McBride, a member of the local Protestant community, and he received me most graciously. He had lost his father-in-law and brother-in-law in the Orange Hall gun battle. He had been to the wake house on the Monday night but had left before Anthony McCooey had returned. He was aware that Anthony had been at the removal of the remains from the hospital and wished me every success in

my efforts to clear Anthony's name and to establish the truth. I deeply appreciate his kindness.

The statements published in these pages are my answer to Mr. Alison M.P. I trust that he or his successor in the Northern Ireland Office will now have the courage and integrity to bring to justice those who so calumniously conspired to have John Anthony McCooey committed to prison.

In the light of these disclosures the arrest and changing of McCooey with the Orange Hall killings takes some explaining. The failure of his defence team to present any evidence of their clients whereabouts on the fatal night was, at first sight, strange and possibly close to criminal negligence. In any ordinary Court such a comment would probably be justified and correct. The case was not heard in an ordinary Court but, in a Diplock Court, where there is one Judge and no jury.

As with the Special Criminal Court in Dublin, the Diplock Courts in Belfast were set up by politicians, to get convictions which no jury of Northern people would countenance. The rules of evidence were altered to make it virtually impossible to successfully rebut police evidence. In the period under review 1976/77 police evidence consisted in the main (80%) of statements alleged to have been made by the accused while in police custody. The alleged statements did not have to be signed in order to be accepted by the Judge. Defence lawyers were, in most cases, fighting a lost cause, even when their clients were innocent. Bruise marks or other injuries did not invalidate the police evidence even where there was proof that the injuries were inflicted by the interrogaters. It was necessary for the defence to prove torture before their case could have any effect. Torture was considered to be in violation of the European Convention of Human Rights and as such had some standing in the Diplock Court. Evidence for defence, sometimes up to a dozen witnesses testifying that the accused was elsewhere at the time of the offence, did not have the same standing as one unsigned statement alleged to have been made while in police custody.

Given the track record of Diplock Courts the defence strategy of accepting their client's guilt, as being the lesser of two evils, can be understood but not, in my opinion, condoned. The failure to call any evidence to rebutt the prosecution case and the failure to cross examine police witnesses may have helped to reduce the sentence from 20 or 30 years to one of life, i.e. 14/15 years. It also ensured that McCooey had no right of appeal and that the lying evidence of police officers went into the Court records unchallenged. Such defence strategy helpt to protect the evil men who have, in Diplock Courts and in Interrogation Centres, conspired top pervert the course of justice. Having spoken to men who shared a cell with McCooey in prison, I am convinced that had the defence lawyers called the psychiatrist, who examined McCooey shortly after he was remanded to Crumlin Road Prison, he would have cast doubt on the police story. Neighbours of the accused, who were present in the Court, could have told of his whereabouts on the night of Monday 1st September 1975. Such a defence might not have succeeded in the Diplock Court but prospects of a successful appeal would have been enhanced. In the interests of justice it is imperative that every case be fought to the end and every shred of evidence be produced and recorded in the Court

transcripts. Only in this way can evils, such as those exposed in this trial, be publicised and thereby brought to an end. Such a course takes courage and would also test the integrity and ability of the legal profession.

BACKGROUND TO McCOOEY'S ARREST

Castleblaney has featured prominently in my research and writings, and it was to this border town that the youths of Keady/Cullyhanna areas went on Sunday night to dance. There were frequent rows and fights between them and youthful members of the Irish army based in the town. On the night of 14th October the fights were more serious and developed into a riot. Some 30/40 youths from County Armagh were arrested and remanded on bail to the next sitting of the District Court. The cases were put back, month after month, at the request of the prosectution. In September 1975 the District Justice told the prosecuting garda to produce his evidence or he would dismiss the lot. No evidence was forthcoming and all cases, including that of Anthony McCooey, were dismissed.

Later that year McCooey was a passenger in a car which was involved in an accident, and he suffered a fractured skill. He spend several months in hospital and had a steel plate inserted in his head. He certainly had his share of suffering and it came as a great surprise when he was arrested and charged again with the offences committed in October 1974. The re-opening of the 1974 cases was announced, at the September 1976 sitting of the District Court, by a garda Inspector. He told the Court that this was being done at the request of the Director of Public Prosecutions (DPP) and that those charged in 1974 would be arrested and charged as and when they entered the jurisdiction of the Court. So far as I could ascertain Anthony McCooey was the only one re-arrested and charged, although I do not rule out the possibility of one or two others having been charged. I wrote to the gardai seeking information about the number re-arrested, and charged, as a result of the directive from the DPP. The curt reply speaks for itself.

Dear Sir,

With reference to your letter dated 20th October, 1978 to Garda Siochana, Castleblayney and your letter of 21.10.78 to Garda Siochana, Carrickmacross, please note that it is not the practice to furnish the information you seek in the matter.

Yours faithfully,

J.P. McMenamin
Inspecto

The timing of the announcement by the DPP that he wanted the dismissed cases reopened was significant. In the same month an SAS officer was writing out a version of the shooting of one Peter Cleary in April of that year and the timing of these two events has sinister implications. The reply from Inspector McMenamin indicated that the gardai authorities were not prepared to be open and frank about a matter of public conern. Clearly the gardai, or their political bosses, feared that their apparent bias might be exposed. Was there collusion between the DPP and the British SAS to have McCooey charged and convicted in Castleblaney as a prelude to his arrest and conviction for an offence in Northern Ireland in which he had neither act nor part?

Anthony McCooey, like hundreds of other Catholic youths in Northern Ireland, had been arrested and questioned on many occasions by the RUC or the British army. On Sunday 5th December '76 he was arrested along with two young girls by the British army. He was held overnight and released the following day. During his period of detention he was not questioned about the Tullyvallen Orange Hall shootings. On the day after his release, Tuesday 7th December, the Castleclaney Circuit Court Session at which McCooey was to appear, opened. His case was not heard until Wednesday 8th and he was found guilty on two charges. The Judge imposed two six month jail sentences, not to be enforced if the accused entered into bail to be of good behaviour for two years. This Anthony McCooey readily did and his mother cleared Court costs etc of about £75. Within a week McCooey was arrested in Northern Ireland and this time he was given prepared documents to sign. He was charged at a Special Court in Newry, and remanded to Crumlin Road Prison, Belfast. A psychiatrist was sent in by McCooey's lawyers and was told by the prisoner that he had been abused by the RUC and that he was particularly afraid of a named policeman. He also told the psychiatrist that he was given prepared documents to sign, and was threatened with having charges of murdering the victims of the Kingsmills massacre added, if he did not sign the "statements." I understand the psychiatrist gave details of this visit to McCooeys solicitor.

The "Book of Evidence", or the presecution case, against McCooey consisted of the signed documents and police observations about the accused's demeanour during his interrogation. In the light of the statements made by people who attended the funeral of Vincent McCooey and those in the houses visited by Anthony McCooey on the fatal night, the police case makes strange reading.

Having ascertained that Anthony McCooey had nothing to do with the Orange Hall killings I endeavoured to get details of the prosecution case in the daily newspapers. Dublin newspaper coverage of the trial was reduced to sensationalism and the Irish Independent's headlines, "Death rode out with Provo taximan," summed up media coverage and attitudes. No informative details of the prosecution case were reported so I found it difficult to ascertain just what evidence had been produced against McCooey. Mr. Alison M.P. had thrown out his challenge, "Produce your evidence", and having done so I sought his help to get the evidence on which McCooey was convicted. I wrote to the Royal Courts of Justice, Belfast, seeking the Book of Evidence against McCooey and was informed that I could not have it. A request to his mother to get a copy of the

prosecution case from defence solicitor met with a similar fate. Mrs. McCooey went to see the defence solicitor but failed to get the documents. Mrs. McCooey told me that he said, "If Mr. Cunningham wants the Book of Evidence let him come in himself." I did so and was told that he could not let me see the papers without written permission from the prisoner. This I accept was correct legal procedure. However as I was leaving the solicitor's office he told me I was wasting my time on the case and added, "I am privy to information not available to you." He did not inform me of the nature of the "Privy Information". For months I endeavoured to get a letter from the prison, which would authorise me to get a copy of all documents relating to McCooey's trial from the solicitor, but without success. Since the Book of Evidence is not available to me for inspection I can only assume that there is a "cover up" on vital information which would prove McCooey innocent. Some three years ago I was allowed to read the Book of Evidence in Crumlin Road, Courthouse, Belfast, and I write from memory.

Police evidence told that Anthony McCooey had been drinking in the Emerald Bar on the afternoon of Monday 1st September 1975. He was joined by two brothers "John and Willie McCabe", and they stood a round. They asked him if he knew where Tullyvallen Orange Hall was and he told them that he did. On being told this John McCabe told him that his application, made in July, to join the IRA had been approved and he was now a member of that Organisation. They had a job to do at the Orange Hall that night but did not know where it was so he was under orders to drive them there. McCooey told that he had no car and was told not to worry because "We will hijack a van." They continued to drink until about seven p.m. when they left the Pub and simply hijacked a van. They drove out into the country and got combat jackets and guns before going to the Orange Hall. McCooey remained in the van while the others did the shooting and after they returned he drove off. The guns were buried in a field and the van abandoned following which they ran across three fields before getting into a Mark 3 car and returning to a Dundalk Pub. While there the news of the deaths in the Orange Hall was announced on television and they cheered and drank in celebration. There was no mention of how McCooey got home. One of the interrogating police asked the names of all the men who took part in the operation and was told that four had been on the job. After some time McCooey was supposed to have named them but the policeman told him that he believed there were more. McCooey denied this and said that there were only four "That's the truth." After further questioning he said to the questioner "I would be signing my fucking death warrant if I told you any more." The policeman suggested that McCooey had already done that when he named the "McCabes" and that he might as well be "Hung for a sheep as a lamb." McCooey then got red in the face and said, "Peter Cleary", and a short time later he was alleged to have added, "And that fucker will murder no more Orange cunts now!" Another alleged written statement later in this book reflects the same pattern of foul language.

This was the only evidence presented by the prosecution in relation to McCooey's involvement in the Orange Hall killings and in relation to his membership of the IRA. The evidence was without doubt false, and bears out the version of events as given by McCooey to the psychiatrist sent in

by defence lawyers. In his talk with the psychiatrist, Mr. McCooey had told of being beaten, being denied sleep and that he had been given prepared documents to sign. He had signed them to avoid further torture. The language used in these false documents was designed to create the greatest possible propaganda effect against the Provisionals and against Peter Cleary in particular. The manner in which Cleary's name was dragged out, in the carefully prepared documents, set him apart from the other men named therein.

PETER CLEARY

Peter Cleary had been dead some eight months when McCooey was given the false documents to sign — documents which had been prepared by a member or members of the British "security forces". The writers of the documents had some particular reason for naming Peter Cleary and it may have been guilt and/or fear which motivated him and his aides. Evidence given at the inquest into Peter Cleary's death suggested that the man responsible for the false statement was probably Captain Nairac.

Peter Cleary was shot in April 1976, yet there had been no inquest up to the time Anthony McCooey signed the false statements. The following month the County Armagh Coroner decided to go ahead with the inquest, which returned an open verdict. Evidence was given by several members of the SAS but the officer who fired the fatal shots did not appear in Court in person. A statement, said to have been made by him, was read to the inquest jury. In it the officer, who was identified as soldier "A", told that he was a Commissioned Officer in the 22nd Special Air Service, and that he was stationed at Bessbrook. Captain Nairac was a Commissioned Officer in that Regiment and he was also stationed at Bessbrook. People present when Peter Cleary was arrested did not know the identity of the Officer who had arrested him but they now assure me that the man was Nairac. Following Nairac's abduction in May '77 his photograph was flashed on T.V. screens and he was at once recognised as being the man who abused and arrested Cleary. Evidence given at the inquest establishes that the man who arrested Cleary also shot him. Without doubt that man was Nairac.

"Soldier A" told the inquest of the preparations he made to mount the exercise which resulted in Cleary's arrest. He told of Cleary attempting to avoid arrest and of his capturing him thus: "I tackled him round the neck and threw him to the ground, where I frisked him for weapons. Noticing that he was fairly heavy, I got hold of him and forced him against the wall of the house. ----------. I then took this man by the arm, which I noticed was fairly strong, around the corner to another building. I took him inside - --------- I ordered the man to strip, then I searched him and his clothing. --- ---------. I arrested him saying 'As a member of Her Majesty's Forces, I arrest you', whilst touching him on the shoulder. ---------. I radioed base to request that a Helicopter be placed on immediate standby." There followed much detail of how the SAS men brought the prisoner to a field at which the Puma Helicopter was to pick them up. A second Helicopter, a Scout, fitted with searchlights, was also present to assist in the operation. While awaiting the arrival of the Helicopters, the prisoner was forced to lie

down on the ground. As the Helicopters approached, the officer ordered Cleary to stand up and he did so some six feet from a high wall. The statement continued: "I was standing with the butt of my Self Loading Rifle (SLR) in the armpit. The muzzle was pointing at Cleary and would have been about four or six feet from him. My SLR was loaded with a magazine containing eighteen rounds of 7.62 Ball Ammunition and was cocked. -----. As the Puma started to close in, but before the searchlights were turned on, Cleary hurled himself at me. I was aware of his arms stretched in front of him directed towards my throat. This was an unprovoked attack. It was dark, the moon still being obscured by the cloud. I was alone with a known IRA man who had just attempted to escape thirty minutes earlier. I believed him to be a killer, who might be heavier and stronger than I was and who would not hesitate to kill me and make his escape through one of the gaps in the wall, and then across the border, 30 metres away. As he lunged at me, my instinctive training as an SAS Soldier took over; I released the safety catch on my SLR and started shooting, and continued to fire until the danger to my life was past, and that was when Cleary was on the ground. I had no chance to warn him. -- -------. There had been no time to call out to the other members of the patrol ---------." Details of the removal of Cleary's body and the arrival of the Helicopter in Bessbrook completed the statement.

There was no date on the copy of this statement which I got from the Coroner for Armagh via the Northern Ireland Court Service, but it appears to have been written on or about 12th September 1976. In the light of this statement, the autopsy findings of the Assistant State Pathologist for N.I. make interesting reading.

F. 19,117

THE QUEEN'S UNIVERSITY OF BELFAST

NORTHERN IRELAND OFFICE

OPINION

on

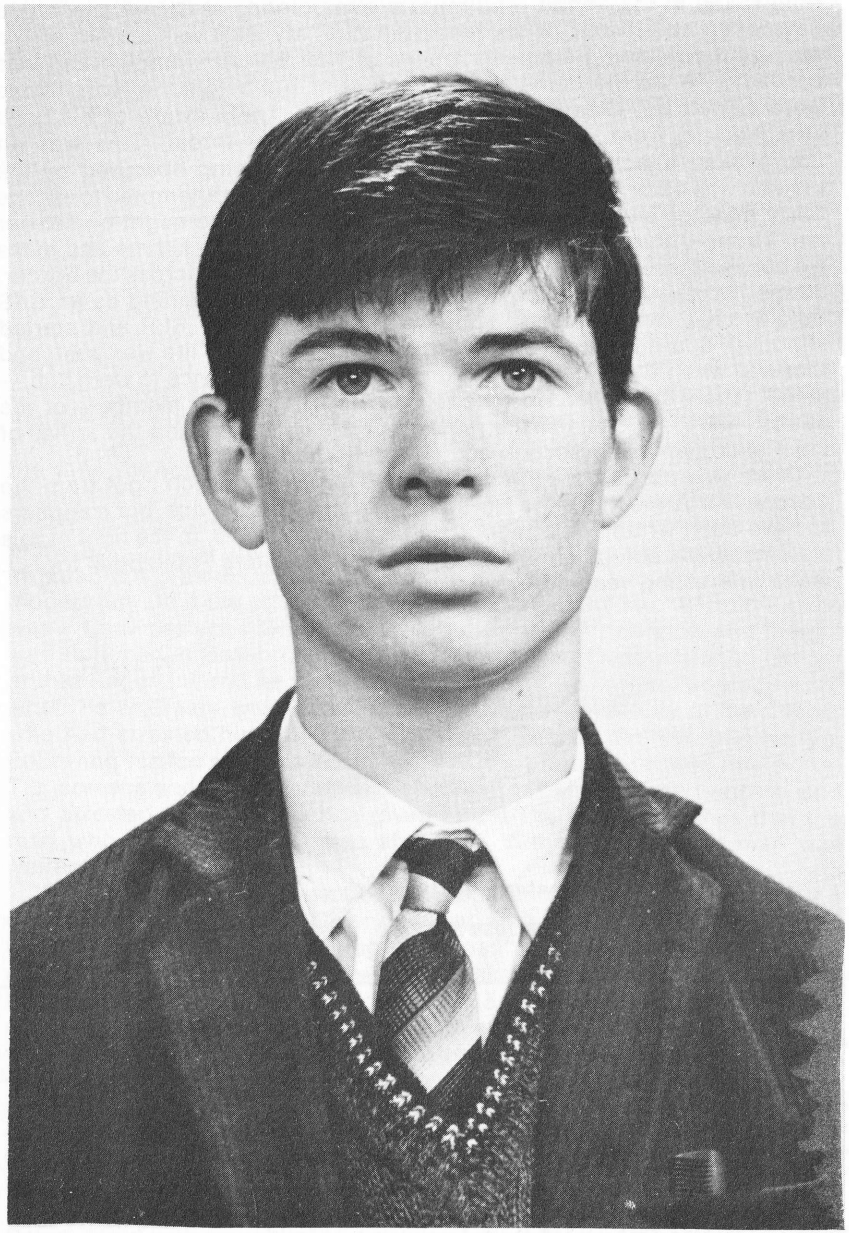
the autopsy findings of -

PETER JOSEPH CLEARY

The man was healthy. There was no natural disease to cause or accelerate death.

Death was due to gunshot wounds of the chest. Three bullets had entered the left side of the front of the chest and had passed backwards to make their exits on the back, two on the left and one on the right. In their course they caused laceration of the aorta and each lung and fractures of one right and five left ribs. These injuries would have caused his rapid death.

The injuries were of a type caused by bullets of high velocity. There was nothing to indicate that any of the bullets had been fired at close range.



Peter Cleary

The path of two of the bullets was roughly horizontally backwards whilst the path of the bullet, which had entered close to the centre of the chest, was backwards and slightly downwards with a deviation to the right.

Abrasions on the face were probably caused when he collapsed. They were of trivial nature and played no part in the fatal outcome.

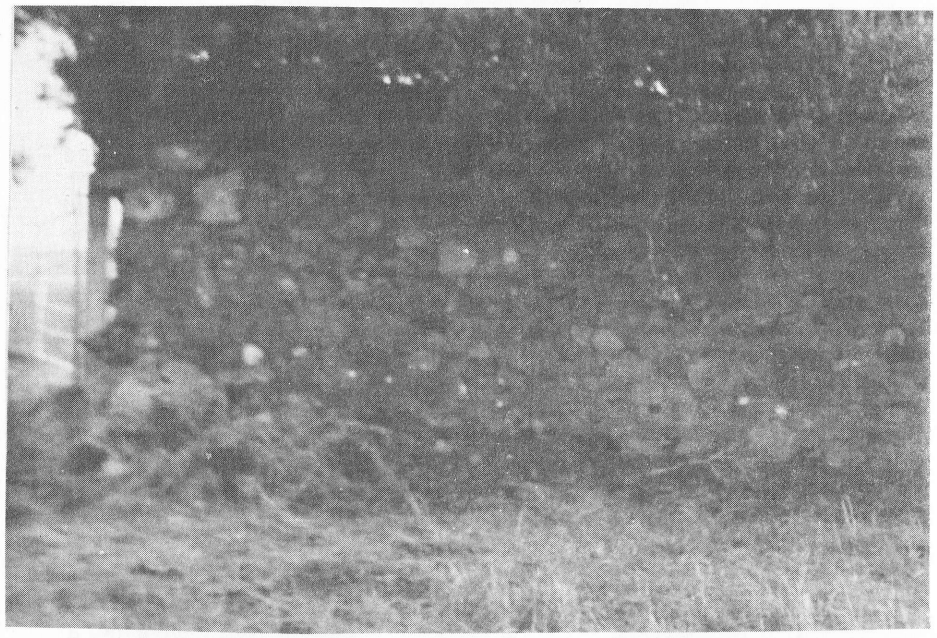
The report of the Forensic Science Laboratory shows that at the time of his death there was no alcohol in the body.

The pathologist, Dr. Press, reported that "There was nothing to indicate that any of the bullets had been fired from close range." Forensic tests confirmed this opinion. The statement written by Soldier "A" indicated that Cleary was only 4/6 feet from him **before** he made the lunge with outstretched hands directed at his throat. The lunge, if made at all, would have reduced the distance between the men to a foot or so and the outstretched hands would have been even closer to the gun. If the hands were directed at Soldier "A's" throat they would have been in the trajectory of the bullets. Neither hands nor arms were struck by the bullets and no trace of gun powder was found during forensic tests on the long-sleeved pullover worn by the deceased. These revelations cast grave doubt on the story told by the Commissioned Officer of the 22nd Special Air Service under the nom-de-plume "Soldier A."

Dr. Press gave as his opinion that the injuries to Cleary's face, two abrasions, 12 mm and 8 mm, on the left upper eyelid, an abrasion 2 mm in diameter, on the front of the right cheek and a similar abrasion on the front of the chin, were caused when Cleary collapsed after being shot. Evidence given at the trial of a British soldier following the murder of John Boyle, in a County Antrim graveyard, suggested that a high velocity bullet fired from thirty yards would, if striking a man on the chest, knock him over backwards. The three bullets which struck Peter Cleary would have had a similar effect had he been standing at the time of impact. Injuries in that event, if any, would have been to the back of his head. The spot where the shooting took place was in a grass field so it would be doubtful if any injuries occurred on his collapse. The injuries were much more likely to have been inflicted when Cleary was taken into the second house for strip-searching **before** he was arrested. Blood-stains on the floor and damaged furniture in that house indicated a struggle, and people who saw the corpse were shocked at the injuries and discolouration. In addition to the injuries mentioned, the deceased's right collar bone was also broken. The pathologist offered no explaination as to how this injury was received. When Cleary was taken from the house to the landing-pad he was not walking but was dragged with his head hanging at a strange angle. Those present feared that his neck was broken at this time, but I could find no supporting evidence.

The finding of one of the bullets in the ground close to the blood indicated that it had struck the victim when he was close to the ground. The blood, which was only five feet from the wall, indicated that Cleary had not in fact lunged forward to attack "Soldier A". All in all there must be grave doubts about the alleged written statement made by this SAS officer.

One thing which cannot be doubted is that the scales of justice were certainly loaded against Peter Cleary and John Anthony McCooey.



Carden wall beside which Peter Cleary was done to death

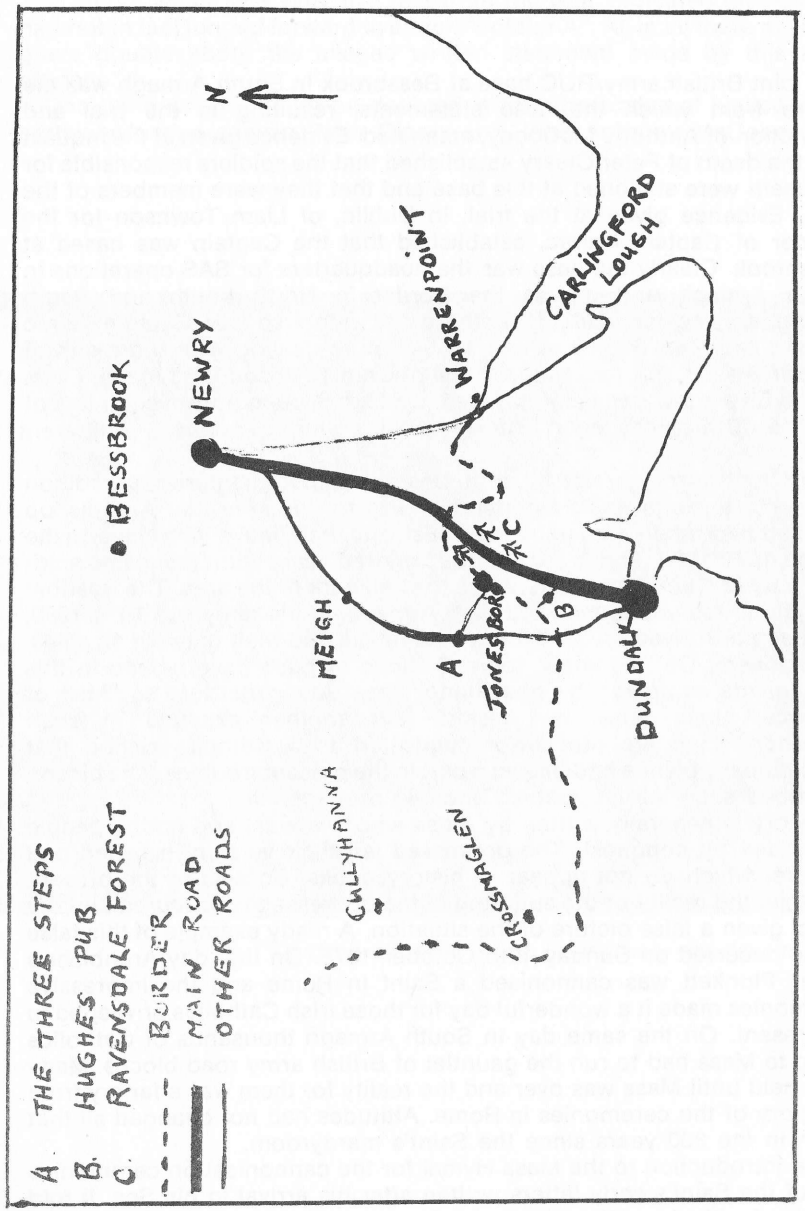
THE NAIRAC / TOWNSON EPISODE

The joint British army/RUC base at Bessbrook in South Armagh was the centre from which the false statements, resulting in the trial and conviction of Anthony McCooey, emanated. Evidence given at the inquest into the death of Peter Cleary established that the soldiers responsible for his death were stationed at this base and that they were members of the SAS. Evidence given at the trial, in Dublin, of Liam Townson for the murder of Captain Nairac, established that the Captain was based at Bessbrook. Clearly the base was the headquarters for SAS operations in South Armagh and across the Border in North Louth and South Monaghan. The dominant officer there was, without doubt, Captain Nairac of the 22nd SAS Regiment and MI 6. Before dealing with the death of Captain Nairac and the resultant trial of Liam Townson for that deed, it is well to give a few details of the area, which has been portrayed in recent years by British propagandists, as bandit country. I see it in a different light.

The South Armagh/North Louth area has had, for centuries, a tradition of loyalty to Faith and Fatherland. It was to this area that Archbishop Plunkett fled, when hunted by the British and their native Irish allies, in the period 1670/1680. Today some three hundred years later, that same spirit of loyalty to Church and Country is the hallmark of the area. The freedom struggle of the young men of South Armagh, in the ten years 1970/1980, has been portrayed, by British progagandists and their native Irish allies, as terrorism. Unfortunately some Catholic bishops have helped in this propaganda campaign by describing these young patriots as "Men of violence." Irish television viewers had another example of such distortion when an interviewer suggested to a Catholic bishop that institutional violence had played a part in the present troubles. The bishop described such talk as rubbish and vile propaganda.

History is generally written by those who win wars and not by people oppressed by conquest. The oppressed tell their version in ballad and folklore, which do not appear in history books. So also in the present struggle, the reality of the suffering of the oppressed is obscured and the world given a false picture of the situation. A ready example of this false image occurred on Sunday 12th October 1975. On that day Archbishop Oliver Plunkett was cannonised a Saint in Rome and the impressive ceremonies made it a wonderful day for those Irish Catholics privileged to be present. On the same day in South Armagh thousands of Catholics going to Mass had to run the gauntlet of British army road blocks. Many were held until Mass was over and the reality for them was a far cry from the glory of the ceremonies in Rome. Attitudes had not changed all that much in the 300 years since the Saint's mardyrdom.

The introduction to the Mass Hymal for the cannonisation ceremonies told of the Saint's early letters written after his arrival in his See. It told that the Archbishop "Was determined to stay with his people, ministering to them as a bishop should, avoiding all involvement in political matters." There was surely a message in these few words for the present day bishops of **IRELAND**.



North Louth / South Armagh
Note, Bessbrook lies to the north of the "Three Steps Inn."
Nairac arrived there from Jonesborough direction; i.e. from the south.

THE FATAL NIGHT

On the night of Saturday 14th May 1977 a British army officer, Captain Nairac, left his SAS base in Bessbrook Mill dressed in civilian clothes, and went to the "Three Steps Inn" close to the village of Dromintee in South Armagh. It had been a pleasantly warm May day and the public house was packed with locals. Nairac parked his car in the car park and radioed to his base informing them that he would be in contact later. There were about 250 patrons present and a band was entertaining them. Nairac went to the bar and ordered a drink and talked to an elderly man for some time. He then went to the band-stand and sang two songs with an Irish rebel theme. This strange behaviour, by an undercover agent of the British army's crack SAS, was surprising and begs the question "Was he deliberately advertising his presence?". He must have been aware that most of the patrons in the "Three Steps" detested the presence of the British army in Northern Ireland, and hoped for a speedy withdrawal of the occupation forces. He must also have known that there were people sympathic to and possibly members of the Provisional IRA present. Clearly this did not worry Nairac as he sang his rebel songs, and the question posed by this behaviour was "Did the Captain know somebody present, possibly somebody associated with the Provisionals?". I sought answers to these questions in South Armagh.

It was easier to ask questions than to get hard information, but it did emerge that Captain Nairac had interviewed many young men from the area, in Bessbrook, after they had been taken in for questioning by the RUC. He also met a prominent member of the Provisionals on a number of occasions and they exchanged information of little importance. They met early in May, and Nairac requested his fellow conspirator to get him specific information, and it was agreed that they meet in the car park of the Three Steps Inn on the fatal Saturday night immediately the band stopped playing. Nairac's act of going to the band-stand and singing appears to have been to let this man know of his presence.

Both men left the premises at the appointed time, and met as arranged in the car park. The Provisional, whom I shall call "Tony", informed Nairac that he was unable to get the information requested earlier. The good Captain became very annoyed, and suddenly produced a gun which he stuck in "Tony's" ribs.

He is reported as saying "You are a liar; I know all about you; you are the intelligence officer in the local unit of the IRA and can answer my questions. Talk or you are a dead man." At that moment a motor car came round the "Three Steps" from the Jonesborough direction and its lights distracted Nairac. The distraction gave "Tony" his chance and he struck out at Nairac knocking him against a parked car. As Nairac fell "Tony" kicked the gun from his hand and knocked it under the car. He called two men who had emerged from the Pub to come to his assistance. They did so and he told them that the man was a "Brit" and that he had pulled a gun on him. He had threatened to shoot him as well. From my enquiries no words passed between Nairac and "Tony" in the public house. Details of what really happened after this are not clear. Nairac was abducted and taken to Ravensdale in County Louth, and an IRA statement said he had been executed. His body has never been found.

Reports in newspapers and statements allegedly made by men while in police custody gave contradictory versions of what happened on the night in question. The English Catholic weekly "The Universe" in its issue of 20th May 1977 gave the following information. "Cardinal Hume said of former pupil Captain Robert Nairac of the Grenadier Guards, believed to have been murdered by the IRA in Ulster this week : 'Robert was a fine and very courageous young man. I am deeply saddened. It makes me realise even more vividly what anguish and pain so many people have suffered in the long years of civil disturbance'." The report continued "Captain Nairac disappeared late on Saturday night at Forkhill, about three miles from the South Armagh border. The army said he was abducted by TWO men after a struggle in a pub car park. He was on duty at the time - officially he worked as liaison officer between the British army and the local Police - but it now appears he sometimes worked for the crack Special Air Service. A few hours later his car was found abandoned."

Cardinal Hume had made an appeal to the IRA on Monday for his release. Then the IRA made a statement in Belfast saying they had interrogated him and that Captain Nairac had been 'executed'. His death was the second tragedy for his parents, who had been waiting anxiously for news at their home in Stonehouse, Glos. His elder brother, David, died of a mystery illness in hospital in 1962. One of the captain's sisters, Rosamund, said 'Since he has always loved Ireland and the Irish, it is ironic he may have died while trying, as a volunteer, to contribute to peace in Ireland'." The Universe further reported that a sub-rector in Lincoln said of Nairac "He had a tough exterior which covered a sensitive nature." This report in the "Universe" claimed that Nairac had gone to Forkhill and it ties up with local beliefs that Nairac had a number of informers working for him in that village. One of these, whom I shall call "Mac Thomais", was believed to have assisted in the operation in which Peter Cleary was captured and later shot. At the subsequent inquest on Cleary the commissioned officer who had murdered Cleary did not appear to give evidence. A statement, said to have been made by him, was read out in court, and indicated that he was based at Bessbrook Military Location. Other members of the patrol which carried out the operation gave direct evidence to the inquest and were not identified by name but by letter. There remains a widespread belief that the officer who shot Cleary was in fact Captain Nairac. The informer "Mac Thomais" was a married man who was known to have had affairs with other women, and it was widely believed that Nairac used this weakness to force the man in question to turn informer. Many young men taken into Bessbrook Mill by the RUC for offences such as the theft of copper cable were passed over to Nairac for further interrogation. If they showed any willingness to co-operate in his spying mission, they heard no more about the initial offence. Locals named a number of youths put in this predicament by Nairac, and described it by what it was: blackmail. Mystery certainly surrounded Nairac, and even his fellow SAS men were left in the dark as to his whereabouts on the fatal night. Had he told them that he was going to "The Three Steps" instead of telling his destination was Forkhill, search parties could have been on the scene hours earlier.

While serving in Belfast, Nairac was said to have used as his alias "Buckley" and was said to have been a queer sort of man. Even today

mystery surrounds his memory. Is he dead? Was the missing man really a son of the Nairacs of Stonehouse in Gloucester, England? Nothing which transpired at the subsequent trials in Belfast and Dublin of six yong men in connection with the abduction and alleged death of Nairac has thrown any light on this last question. On the contrary the mystery deepened. This was the man Liam Townson was alleged to have murdered. My task is clearing Townson's good name was not going to be an easy one.

The abduction and possible death of Captain Nairac was a severe blow to the morale and standing of the British army and the RUC. It became imperative that men, preferably members of the IRA, be brought to trial and convicted. In the process every effort was made to discredit the Provisionals, and maximum publicity was given to such propaganda. In the days following the abduction many houses in the Dromintee and Jonesboro districts were visited and young men questioned. Among those questioned was "Tony" but he was not arrested then or since. On the 18th May 1977 two fishermen from Newry found bullets and blood on the banks of a small river in Ravensdale Forest, and they reported their find to the gardai. Following this find there was increased police activity on both sides of the Border. The RUC tried to trace and interview all who were in the Three Steps on that fatal night. Some of those interviewed made statements, and among them was Desmond McCreesh, owner of the Three Steps. (Other members of staff did likewise). After telling that, for security reasons, he remained outside the pub on Saturday nights, he gave a very interesting version of Saturday 14th May 1977.

"Around a quarter to ten or so I noticed a metallic grey-coloured car, I think it was a Ford Escort, come from the Newry direction. ------ I saw two men get out of it and the car drove off towards Forkhill ------ the two men walked past and went into the pub. I didn't know them nor did I ever see them before. At about 10.15 p.m. or so I noticed a red-coloured Toledo car, registration CIB something or other, come out of the Jonesboro Road and pull into the top of the car park. ------ The driver got out and went into the bar. He was the same person as the man in the photograph (Nairac). ------ both the car and the person who was driving it were strangers to me. I remained in the car park for the rest of the night and did not see any other strangers going into the bar. --- At around 11.30 p.m. I saw three people go up past my car --- towards the top of the car park. Although it was pretty dark at the time, I am fairly sure that these three men were the three strangers I had seen arriving earlier. As they walked past by view the soldier was slightly in front of the other two - a couple of feet or so. I sat in my car for about another ten minutes or so, and I heard or saw nothing unusual. I was listening to the radio, and at about twenty to twelve I went into the house, took off my coat, and went into the bar ------."

Two significant points in this statement were: the direction from which Nairac arrived at the Three Steps Inn, and the departure of the Ford Escort towards Forkhill. Nairac arrived from the Jonesboro direction, which is south of the Three Steps. Nairac was based at the joint British army/RUC base in Bessbrook which is north of the Three Steps, yet he arrived there from a southerly direction. On leaving his base, Nairac informed his operations control that he was going to Forkhill, and if he did so he must have crossed the Border and gone into the Republic of Ireland returning by way of Hughes' Pub. Hughes' pub was close to the spot where Peter

Cleary was arrested and murdered by members of the British army (SAS) and Nairac was familiar with this district.

The second point of interest was the departure of the Ford Escort car towards Forkhill immediately the two strangers alighted from it. This pinpointed the general Forkhill area as the location to which any prisoner, taken by the IRA for questioning, would ultimately be brought.

Following the finding of the bullets at Ravensdale five young men were arrested on different days and taken to Castlereagh Interrogation Centre, Belfast. All were alleged to have made statements admitting involvement, to some degree, in the affair of the Three Steps Inn. These statements were strongly challenged by defence lawyers during the subsequent trials in Belfast. Counsel claimed that their clients had been beaten, threatened and subjected to terror tactics by named members of the RUC. The trial judge over-ruled these objections, but subsequent events which saw one of the policemen dismissed from the force tend to support the prisoners' version as being the truth. Statements made by three of the five charged in the North were passed over to the Gardai, and used by them to force a confession out of Liam Townson. It is my contention that the alleged statement attributed to Townson was in fact not made by Townson but was constructed by two members of the Special Branch from Dublin Castle, to wit Inspector Courtney and Sergeant Canavan, using the Northern statements in the process. These alleged Northern statements were not used as evidence in the Dublin trial, but their contents must be tested in any serious examination of the interrogation and trial of Liam Townson.

As a preliminary to any worth-while investigation of historical trials it is helpful to get access to the official transcripts to such trials. Where a numberof trials have common factors such as evidence -- vital evidence -- from the same State witness, then such trials need to be studied together. With this in mind I wrote to the Special Criminal Court asking permission to read the official transcripts of three trials 1. The Senator Fox murder trial. 2. The Mail Train robbery trial, and 3. The Captain Nairac murder trial. These trials had much in common - disturbingly so. A reply arrived in due course.

Dear Sir,

I am in receipt of your letter of 20th November, 1978, the contents of which I note.

The trials to which you refer were duly appealed to and the Court of Criminal Appeal has custody of the transcripts of the trials.

The Registrar of the Court of Criminl Appeal is Mr. G. Frewan, Court of Criminal Appeal, Four Courts, Dublin 7.

Yours faithfully,

J. J. Daughton

REGISTRAR
SPECIAL CRIMINAL COURT.

On receipt of this reply, I wrote to Mr. Frewan of the Court of Criminal Appeal, requesting permission to read the transcripts in question. My letter elicited the following reply:-

Dear Sir

Your letter of the 18th December has been received. It is not the practice in the offices of the Superior Courts to allow access to Court files to persons other than the parties involved in the litigation and their legal advisers. This is particularly so in criminal cases where very personal information on criminal activities of accused persons is on record, and the persons concerned would have cogent reasons for objecting to disclosure of such personal information to unknown third parties. The decision to allow you to inspect such files is not for me to make but for His Lordship the Chief Justice. Before I place your letter before him, I think it would be helpful if you furnished a much more detailed statement of the interest you have in these political crimes, and any reason you wish to offer as to why the prevailing practice should not be adhered to in your case.

Yours faithfully

G. L. Frewan

REGISTRAR

This one paragraph reply certainly gave food for thought. Mr. Frewan's request that I furnish "a much more detailed statement of the interest you have in these **"POLITICAL CRIMES"** was revealing. There can be little doubt that he and possibly the Chief Justice did consider the cases **"political"** and because of that were not disposed to be helpful. The "Mail Train" robbery case was under appeal, and I ascertained that Senator Fox was armed with an illegal gun on the night he was killed, so I decided to concentrate on the Nairac murder trial.

In addition to Fox having an illegal gun, an inquest held in Monaghan had disclosed that he had fired the gun on the fatal night. His was far from being a black and white case.

Due to the postal strike around this time I found it difficult to get in touch with Liam Townson in prison. Eventually a visitor got me a document from the prisoner and I delivered it by hand to Mr. Frewan in the Four Courts, Dublin. He read it and told me he had read the transcript of the trial and there was no doubt about Townson's guilt. Despite this pessimistic statement I was convinced that I could prove him innocent and told Mr. Frewan so. I had great hopes that the authorisation from Liam

Captain Robert Nairac of the Special Air Service and MI 6.

Townson would have resulted in my being facilitated by the Chief Justice. Alas! the Chief Justice, Mr. T.F. O'Higgins, former Fine Gael T.D., did not grant me permission and the reply from the Court was a curt refusal. It appears one is not permitted even to attempt to expose injustices in what were described as "**POLITICAL CRIMES**". Far from being put off, my resolve grew, and with it a belief that the entire legal system in the Irish Republic was under the control of unscrupulous politicians. The note from Townson and the Court reply speak for themselves.

Dear Mr Cunningham,

This is a brief note authorising you to be given the opportunity to examine the Book of Evidence and any other depositions relating to my trial and,(if required), my subsequent appeal. Naturally I hope your examination of these documents will prove to be of some help in my case but whatever the outcome I do thank you, most sincerely, for your interest on my behalf,

Liam Townson.

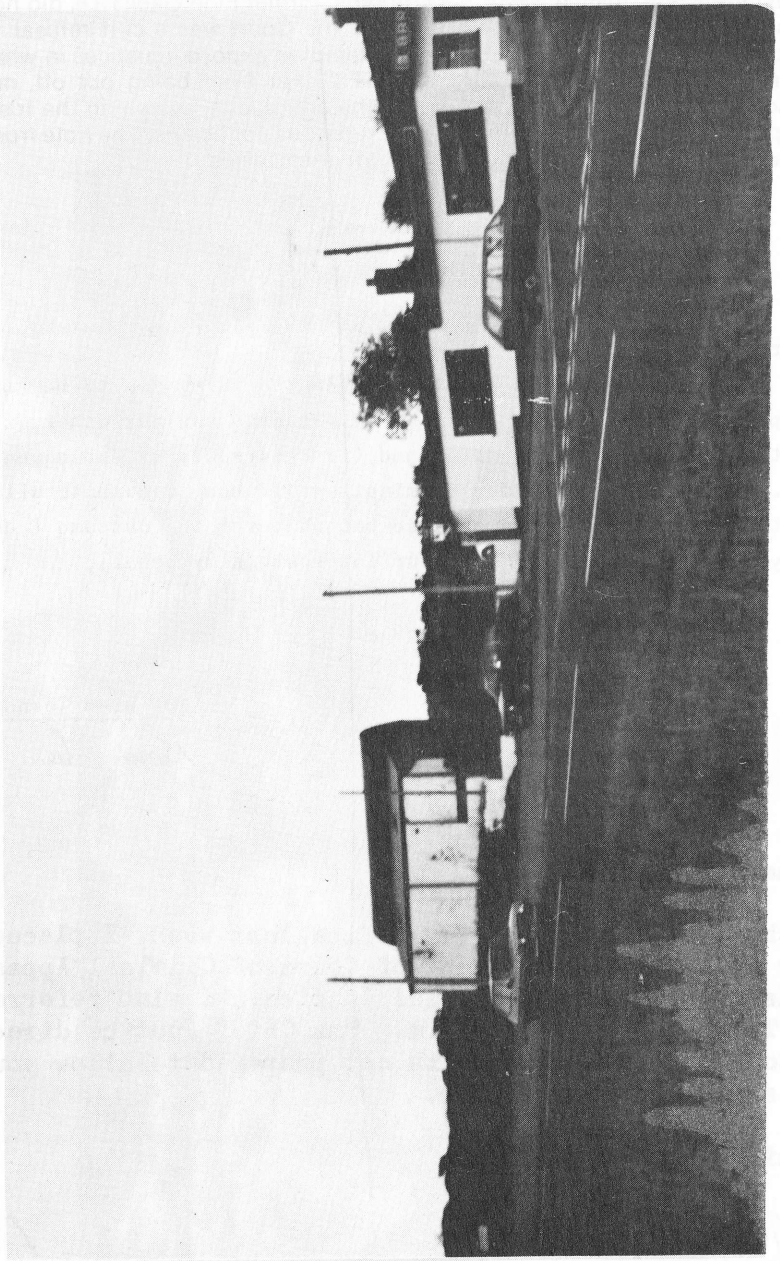
Liam Townson

A Chara,

Further to your call to my office last week, I placed your application for sight of Court of Criminal Appeal transcripts before the Chief Justice. I also referred Mr. Townson's letter to him. The Chief Justice directed me to inform you that he is not prepared to allow you access to the Court files.

Is mise, le meas,

CLARATHOIR



The "Three Steps" photographed from the Forkhill Road; showing the car-park and on the right the Jonesborough road.

Despite this refusal I was to get a complete transcript of the case from another source. Thus the action of the Chief Justice in refusing permission was to prove beneficial. I was able to take the entire 1,100-plus pages of transcripts home and study them at my convenience. The letters from the Courts were to be of help in exposing the type of "**legal convention**" used by the Irish Establishment to prevent citizens from ascertaining if injustice, and conspiracy to pervert the course of justice, did in fact occur in cases such as the one under examination.

My first reading of the Court record of the trial left me in no doubt that the key factor in the decision of the gardai to arrest and interrogate Liam Townson was information passed on by the RUC. This information was contained in statements allegedly made in Castlereagh Interrogation Centre to members of the RUC, and in particular statements attributed to Thomas Patrick Quinn from Jonesborough in County Armagh. The first statement by Quinn was made on Monday 23rd May 1977, and contains the names of a number of men, some of whom were subsequently charged in Northern Ireland.

THOMAS PATRICK QUINN

Statement of Thomas Patrick Quinn, Date of Birth 4th March 1960, of Jonesborough, Co. Armagh. Recording made by Detective Constable William D. Smyth at Castlereagh Police Office at 8.40 p.m. on 23rd May 1977. The interrogation and statement were terminated at 10.50 p.m. and witnessed by Detective Chief Inspector James Thompson Mitchell.

"I Thomas Patrick Quinn wish to make a statement. I want someone to write down what I say. I have been told that I need not say anything unless I wish to do so and whatever I say may be given in evidence. Signed Thomas Quinn."

On Saturday night a week ago, the 14th May 1977, I went on my own to the Border Inn, Drumadd. How I remember it was the 14th was because my father had a horse jumping in Dublin the day before and that was Friday 13th. I arrived at the Border Inn at about 8 o'clock. When inside I met Gerry Murphy, Moire Park, Jonesborough. We had a couple of drinks there and I watched some boys playing pool. We left the Border Inn about half nine and headed for the Three Steps, Drumintee, which is about two and a half miles away. I was driving my mother's Peugeot car which is black. We arrived there at about a quarter to ten or so. I parked the car where I showed you in the drawing I done and we both went inside. The place was packed; there could have been upwards of 200 people in it. It's a big lounge, you know. Murphy and me stood at the bottom end of the bar as you come in the door. I had a pink of Smithwicks and stood and talked to Murphy. I drunk the pink and then ordered another one. At this time we were in the bar about half an hour or so. We drank about half of the second pint and took the rest of our drink into the Pool room. The door to the Pool room is in at the bottom end of the bar. We stayed in the Pool room about half an hour and we had got another drink while we were there. There is a serving hatch from the Pool room into the bar. While we were in the Pool room I spoke to a man called "Tony Allen," who used to have a stall in

Jonesborough Market. He might still have a half share in a stall there. I see him working there with his brother an odd time. We didn't talk much; he just said hello. He was playing Pool with "Bell" of Faughel Road, Jonesborough. After watching the Pool for a while we went back out where we had been standing at the bottom of the bar. We had another pint there. I looked up and saw "Collins" and an old man called Mulholland who used to live beside Higgins standing further up the bar. I went up and chatted with them for about ten or fifteen minutes. While I was there I noticed the man you showed me in the photograph; he was standing at the bar and I think he was talking to another man. The man he was talking to was about 60 years; he was wearing a fawn-coloured checked sports coat. He was bald but what hair he had was grey. I don't know this man. After this I went up to Gerry Murphy again, I was still drinking the last pint I got. About ten minutes later I went to the toilets which is beside where the group plays. I forgot to mention that there was a group playing that night but I don't know who they were. When I came back out of the toilets I stopped and talked with a neighbour, Dan Higgins, who was at the top of the bar near the toilet door. I must have talked to him an hour before I went back to Murphy again. By this time it was after half past eleven as the Group had stopped playing. I was there for about five or ten minutes when Tony Allen approached me and asked me if I would scout some of the roads for him. He said there was a suspect in the bar who had to be interrogated. He said this man had told stories that he was from Belfast and then changed his story and said he was home from Canada. I got the impression that the man he was talking about was a soldier or in the U.D.R. or something. At this time I did not know he was talking about the man standing at the bar with the old man. When he was asking me to scout the road, he was whispering close into my ear. The road he told me to take is the road I drew on the map. He told me to go out of the pub and turn right at Peter Vincent Murphy's shop and then turn left about 100 yards after the shop. I was then to check the road to the Border Inn and report back to him if it was clear of the army. He said to go as fast as I could and not waste any time. Gerry Murphy and I then left the pub and got into my car. I took the roads that Tony Allen told me to do. After we got into the car I told Gerry Murphy what I was doing and asked him to watch out for the army too. When we got to the Border Inn we turned and came back the same road again to the Three Steps. We saw no army on the road and when we went back into the Pub I told Tony Allen that the road was clear. He was still standing in the pub where we had left him. I forgot to say this time I parked by car near the front door of the Pub where I showed you on the map. When I told Tony Allen that the road was clear; he said "thats O.K." Tony Allen then went up to the top end of the bar and then came down again and went out of the front door. In about a couple of minutes he came back in again and asked me to follow him up the road; he said he would be going the same road I had scouted and that he would be in a bronze-coloured Cortina. Tony Allen, Murphy and me walked out of the front door together, and as we went down the steps Tony Allen said he thought the suspect was an S.A.S. man. I knew then that this man would be shot. Tony Allen told me outside that he would be in the Cortina and I knew the suspect would be in it too. I then noticed about five or six men walking up towards the top end of the car park holding another

man who I knew must have been the suspect. Just after Tony Allen left us, he went over to his own car which is a white Datsun, and I saw him taking a scarf out of his own car and tying it round his mouth. The scarf was black-coloured with red on it. I got into my car and drove onto the road. Just as I reached the road I saw the bronze-coloured Cortina pull out of the carpark very fast. The stones were spinning from under the wheels. I drove straight after him. The Cortina had no lights on, and I kept mine off too. After we got round the bend, the Cortina switched its lights on, and I put mine on too. When I put my lights on, I could see that there were three or maybe four men in the back seat and some in the front. He waswell down on the springs. I followed the Cortina at a fast speed along the roads that I had scouted and out the Dundalk Road at the side of the Border Inn; I then turned right and went down the Dundalk Road for about two miles. I went about 600 yards past the wee gate-house that leads into Ravensdale Park. The car suddenly stopped and done a "U" turn in the road. I turned too and when it reached the gatehouse this time, the car turned right at the side of the gatehouse. I followed it down that road and it stopped on the top of the humpback bridge. The doors were all opened and all the men got out. There were about six or seven. I had my lights off and couldn't see very well, although I had stopped ten or fifteen yards behind the car. I saw the man being pulled out of the car by the arms and Tony Allen was the man that was taking him out. The man was taken through a gate into a field which was on my left-hand side. I have marked it on the map. At this time there was no struggle or noise; everything was very quiet. I didn't see any gun being pointed at this man. Just after this Bill Bell came up to me and Murphy, and gave Murphy the keys of his car and told him to take it from where it was parked outside the Three Steps and leave it at the Border Inn. He had a gun in his hand which he pointed at my head and said: 'If anything happens, you know nothing or saw nothing'. I then moved off. After the men got out, the Cortina had moved on down the road. I then went back to the Three Steps and dropped Murphy off beside Bells car. I followed him in my own car to the Border Inn, and brought him back to the Three Steps. We went in and finished our drinks and left about 1.30 a.m. On Monday I heard that a soldier had been kidnapped from the Three Steps. I knew this was the same man that Tony Allen had taken to Ravensdale after I had scouted the road. Signed Thomas Quinn."

To evaluate the credibility of this statement, interrogation methods in use in Castlereagh Interrogation Centre, at that time, must be taken into consideration. Fathers Faul and Murray in their book, "The Castlereagh File", documented case after case of torture and terrorising of prisoners during interrogation in this period (1976-78). Amnesty International were later to confirm the findings of the two priests. The dread of even being brought to this infamous centre was enough to make many young men, in the 16-21 age group, sign statements of guilt when they were in fact innocent. (A ready example of such a signing being the case of John Anthony McCooey which is dealt with in the first part of this book.) Thomas Quinn was in this age group when he signed his alleged confession. The police did not suggest at any stage that Quinn had ever been in the IRA or that he had any connection with that organisation.

The most notable feature of Quinn's alleged statement was the absence of any reference to Liam Townson. There was no shortage of names,

which makes the omission of Townson's more significant. In passing, it is well to note the ease with which Quinn, a youth just turned 17 years, was able to purchase and consume alcohol in public houses on both sides of the border. Licencing laws in both jurisdictions make it an offence to serve under-18-year-olds. In addition to the drink consumed on the night of Nairac's abduction, Quinn had also been drinking during the afternoon, and the quantity consumed was sufficient to impair his ability to drive in addition to his ability to observe and memorise events on the fatal night. At best his judgement and memory of events that night would not have been reliable.

BIRTH OF A CONSPIRACY?

Quinn was to sign a second statement two days later for Inspector Mitchell which contained "**additional information and names**". Before considering the second statement, events which might have had a bearing on its contents are best examined. On the 18th May, following the finding of bullets and blood in a field at Ravensdale forest, gardai from the Special Investigation Bureau under Inspector Courtney took over investigation of the Nairac case south of the Border. During the period 18th - 25th May '77 Inspector Courtney was in constant touch with the RUC and British army intelligence. Local gardai assisted him in the extensive searches and interviews the case demanded. Road checkpoints were set up and motorists were questioned and vehicles searched. The whereabouts of Liam Townson during this period, and the answers he gave gardai about his whereabouts on the night of Nairac's abduction, were to play an important part, in my opinion, in the wording of the second statement signed by Thomas Quinn. This second statement was a prelude to what I consider to have been a conspiracy by police officers on both sides of the border to procure the conviction of Liam Townson for a crime in which he had neither act not part.

The activities of Liam Townson in the period 14th-28th May were not those of a man who had committed murder or who was afraid of the law. He was the only one of four or five men named in gardai circulars who remained at his normal abode in the Dundalk area during this period. Townson worked as usual on Mr. Fagan's farm during the week ending Saturday 21st May, and on that night he went into Dundalk with "Jim McArdle". While in Dundalk he drank in two public houses before going to McArdle's flat, where he had tea before being driven home by McArdle. Both men went into the farmhouse at Proleek and Mr. Fagan mentioned that there was a clay pigeon "shoot" the next day at Angela McDonald's. "McArdle" told him that he would call after dinnertime and drive them to the "shoot". He did so and on the return journey their car was stopped near Thistle Cross and searched. The gardai took details of the car and the three occupants. Gardai records should confirm these facts.

On Wednesday 25th May gardai carried out a widespread search of farms and farm buildings in the Ravensdale and Proleek areas. Included in this search was Mr. Fagan's farm in Proleek, and while there gardai questioned the owner and his two sisters. Other gardai interviewed Liam Townson who was repairing a wall in the farmyard. Townson told these gardai that he was in Dundalk on the night of Saturday 14th May 1977 and told them the names of the two public-houses in which he had been

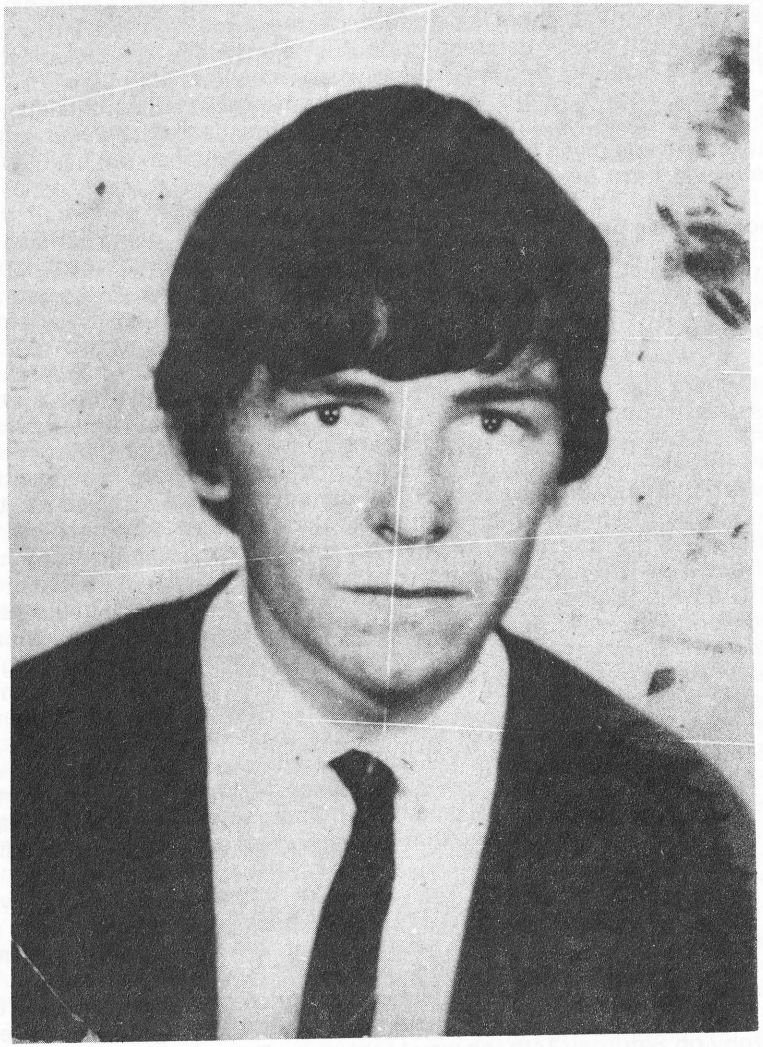
drinking. The gardai left with this information around dinner-time, or some three to four hours before Thomas Quinn was to sign a second statement. It is my contention that details of Liam Townson's whereabouts on the fatal night were passed on to the RUC before they had Quinn sign his second statement. There is no doubt that the gardai discussed Townson's interview and Superintendent Murtagh gave evidence in the Court to this effect. He told that he was present when interviews with Liam Townson were discussed and this was prior to the Northern statements arrival in Dundalk. There can be little doubt that the gardai checked out the movements as given by Townson, and if the details had not been correct he would have been arrested and interrogated.

Right up to his arrest there was nothing in Townson's behaviour which indicated his participation in a murder, or even of his being a member of the IRA. He was not in fact charged with membership of that organisation following his arrest. On the night of Friday 27th May a young cow, the property of Mr. Fagan had great difficulty in calving and it was found necessary to send for a Vet at about 2 a.m. Even with expert service it took some three hours before succeeding with the birth. Afterwards the veterinary surgeon and his helpers went into the house, washed, and had tea. It was about six a.m. when Townson went to bed, and he was up again before eight a.m. to look after cow and calf. For all practical purposes he had no real sleep that night. This information will feature prominently in my rebuttal of gardai evidence about whether or not the accused was tired during the prolonged interrogation to which he was to be subjected on Saturday night and again on Sunday and Monday. On Saturday night Townson went as usual to Dundalk with "McArdle" and on the journey was arrested and taken to Dundalk Garda Station. The key factor in the gardai decision to arrest Townson was the second statement signed by Thomas Quinn which was the subject of strenuous defence objections during the trial in Belfast. It was alleged that the accused, Thomas Quinn, had been beaten and terrified by his interrogators. The statement which was admitted as evidence in that trial, speaks for itself.

Statement made by Thomas P. Quinn on Wednesday 25th May 1977 and taken by Chief Inspector James Thompson Mitchell (4.50 p.m. starting time - there was no finishing time given). There was no other signature on the alleged statement which might indicate whether another police officer was present.

"I Thomas Patrick Quinn wish to make a further statement. I want someone to write down what I say. I have been told that I need not say anything unless I wish to do so, and whatever I say may be given in evidence. Signed Thomas Quinn.

I want to tell you that the statement I made on Monday night wasn't all the truth. I'll tell you the truth now. I went to the Three Steps with Gerry Murphy on Saturday 14th the way I told you. Tony Allen came up to me and Murphy in the Steps and told me that there was an SAS men standing at the bar. He pointed out the man to me. I asked him what man he was talking about and he said the one with the moustache. I looked over and saw the man you showed me in the photograph. He was standing talking to the old man I told you about. This was about fifteen minutes after the band stopped. Tony Allen said they were going to take the SAS man out, and told me and Murphy to stand about to give them a hand. The dance

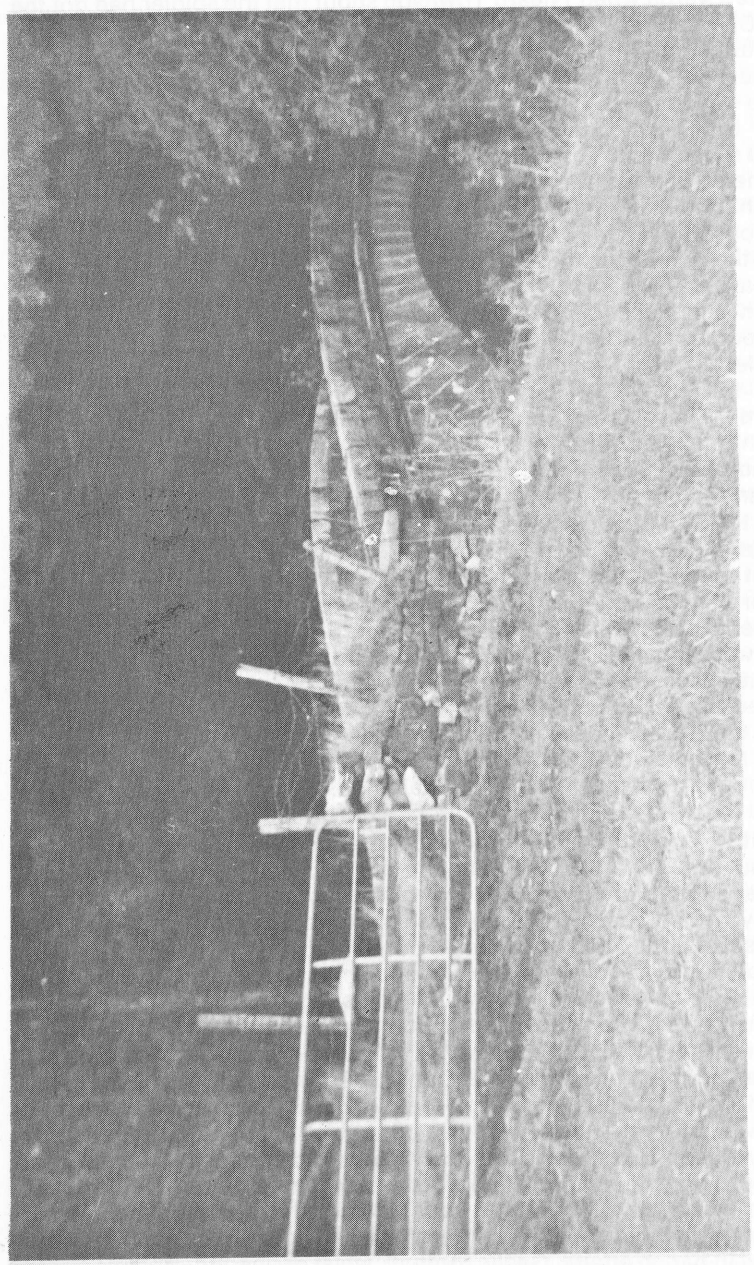


Liam Townson

band was loading up at the front door at this time. About five minutes later I saw Tony Allen go over to the SAS man and say something to him. The SAS man then walked out of the pub through the front door. Tony Allen followed him out and Bill Bell walked out after Tony Allen. I walked out after Tony Allen and Bill Bell, and Murphy came with me. Danny Kelly from Brennan's Cross and Michael McKay went too. Oweny Nixon came out after us and John Smith left the pub too. I knew all these boys were in on it. I knew the way they were behaving. The way the dance bandminibus was parked at the front door, only one person could squeeze out between it and the wall at any one time. When I got out I could see that Bill Bell was blocking this space so that nobody else could get out of the front door of the pub. Myself and the rest of the boys all stopped behind Bill Bell and I could see Tony Allen over at his own car taking the red and black scarf out and putting it over his face. At this time the SAS man was up at the top of the car park on his own. I want to tell you that I didn't scout the road to the Border the way I said in the other statement. That was all lies. I then saw Tony Allen walk up the car park after the SAS man, and a short line after this I heard a scuffle up there. Tony Allen then shouted on us to come up. Mr. Bill Bell ran up and the rest of us, that is all the boys I mentioned, ran up too. When I got up to where they were, I saw the SAS man lying on the ground sort of half underneath the car. I can't remember what sort of car it was. 'Allen' had the SAS man by the throat and was holding him down . Tony Allen said, 'He's dropped a revolver' and he seemed to be searching for it with one hand on the ground. Bill Bell then caught hold of the SAS man and the rest of us crowded round him. Tony Allen was searching for the gun and he found it near the wheel of the car. He then put the gun to the soldier's head and said, 'Don't move, you fucker you, or I'll shoot you'. Tony Allen then shouted to John Smith to go and get his car. A few minutes later John Smith drove up in a bronze coloured Cortina. Tony Allen then told me to get into my car and follow the Cortina. Before I left to get my car I saw a lot of the boys kicking the SAS man and pulling him by the hair. The SAS man was put into the back of John Smith's car. He was forced into the car and Tony Allen had the gun stuck in his back. I went to get my car and Gerry Murphy came behind me. Tony Allen had already told me not to put my lights on until we got away from the place. I drove out of the carpark onto the road, and the Cortina pulled out in front of me. Murphy came with me in my car. When I put my headlights on I could see there were four men in the car along with the soldier. John Smith was driving the Cortina, and I think Danny Kelly was in the front passenger seat, although I am not sure. I know the soldier was in the middle of the back seat and Tony Allen was sitting at one side of him and Bill Bell at the other side. The Cortina drove along the road I drew for you on the map, and drove past the gatehouse at Ravensdale the way I showed you. It then turned and drove down the wee road and stopped at the hump-backed bridge. When the Cortina stopped at the bridge the two back doors were opened and the soldier was pulled out the left-hand door. He was taken into the field I showed you on the map, and then in behind the wall. I stopped my car behind John Smith's, and Murphy and me got out. The soldier was being put in behind the wall at this time. I then heard Tony Allen tell John Smith to go to Dundalk and get Townson or some of the boys. I knew he was talking about Liam

Townson from Meigh who is in the Provies and who is on the run.

John Smith and Danny Kelly went away in the Cortina. I got into my car and was going to hide it in the driveway to McParland's big house when another car came up the road from the direction of the Newry/Dundalk road. I saw Bill Bell stop this car, and I heard him tell the driver to put out his lights and show his driving licence. He had the soldier's gun in his hand at this time, and I saw him point it at the driver. I was standing beside Mr. Bill Bell when he stopped this car. When the driver's licence was produced I read the name on it. It was someone called Hamill. We let the car go on then, and I pulled my car in off the road at the side of McParland's stables. When I came back down again Bill Bell was in the field. I went down into the field and down the side of the bridge. The soldier was then (lying) sitting on his bottom with his back and head against the wall. He had his hands over his face as if he was trying to save his face. His mouth and nose were bleeding. Tony Allen was down on one knee beside the SAS man, and was asking him a lot of questions about who he was and things like that. Murphy and Bill Bell were standing up looking down at him. Bill Bell was pointing the gun at him. During the time he was being questioned I heard the soldier tell Tony Allen to ring a telephone number in Belfast and he would find out who he was. I saw Bill Bell take out a cigarette box and write down the number on it. I can't remember the number now but it was a long number. Just then the soldier jumped onto his feet and tried to make a run for it. He managed to get to his feet. He began to struggle and during the struggle I hit him a kick on the balls. When he went down I kicked him a couple more times. Bill Bell told the soldier to sit down or he would shoot him. I noticed as he fell the soldier hit the back of his head off the wall. Tony Allen then asked him more questions. At this time we were in the field about ten minutes. All this time the soldier had his senses about him. Bill Bell then asked me to take Murphy and bring his car from the Three Steps and park it outside the Border Inn. He gave Murphy the keys. I knew his car was a blue Rover 3.5 litre. The number was COI something. Murphy and me then went away in my car. We didn't take the same route as we came. When we got to the Three Steps we went in and finished off the drinks we had sitting there. After about fifteen minutes we brought Bill Bell's car back to the Border Inn. Murphy got into my car again and I drove down to the field where the soldier was. I parked my car in the same place beside the stables. These stables are about 150 yards from the gate into the field and the other boys were away. Then I heard them talking somewhere round the middle of the field. When we got to where they were, Liam Townson was there. He had the gun and was hitting the soldier over the head with the side of it. He was asking the soldier about the Stickies in Dundalk. The soldier was lying on the ground on his back or his side. Townson was kneeling beside him. While I was watching, Townson hit the soldier on the head about four or five times. He was laughing while he was hitting the soldier. The soldier had his hands over his head but did not speak. He beat the soldier for about five minutes and then he came to where we were all standing. This was only about three yards away. John Smith was away. He must have went away when we were away for Bill Bell's car. Danny Kelly was still there. Townson said to the rest of us, 'I'm taking this fellow over the fields to shoot him'. I then saw him get the soldier up off the ground and



The hump-backed bridge at Ravensdale Park to which Nairac was taken following his abduction. Fragments of a .32 bullet were embedded in the wall.

marched him up in the direction I marked 'C' on the map. They had only gone a few yards when I heard Townson shout that the soldier had got the gun. Bill Bell ran up to where they were and we all ran up behind him. Gerry Murphy and Tony Allen then turned and walked down towards the gate. I saw Bell get a thick stick from the ground and start to hit the soldier over the head with it. The soldier was down on the ground at this time. When Bill Bell stopped hitting him I noticed his face and head had a lot of blood round them. I then saw Townson point the gun at the soldier and I heard the soldier ask for absolution or to see a priest. Townson then said to him that he had time to say a prayer. I was standing with Kelly and we were about two yards from the soldier. About a minute after this Townson pointed the gun down at the soldier and pulled the trigger. It was aimed, I would say, at the soldier's head. The gun made a click but didn't go off. Townson said 'Fuck you - it's only blanks'. He kept pulling the trigger and after about four clicks the gun went off. The barrel was about 2 feet from the soldier's head when it fired. When the gun went off I turned and walked towards the gate. Townson and Bill Bell came down the field just behind me. They were talking and Townson was laughing. I heard Bell ask Townson if he was sure the soldier was dead and I heard him say that he was dead because he knew by his eyes. Down at the gate they were all talking and Tony Allen asked me if he was dead. I said he was. Townson told me to say nothing about the shooting. I then got in my car and left Murphy and Kelly home. I got home about 2 a.m. I got up the next morning and went to ten o'clock Mass in Dundalk. I went to eleven o'clock Mass in Jonesborough as well, but it was nearly over when I got there. About 12.30 p.m. I went to the Border Inn. I met John Smith and Bill Bell. Gerry Murphy was with me. During the conversation Bill Bell mentioned to me that he had accidentally shot Tony Allen in the side the previous night. He said it had happened in the field at Ravensdale while Murphy and me were away at the Three Steps for his car. Signed Thomas Quinn.

I have read the above statement and I have been told that I can correct or alter or add anything I wish. This statement is true. I have made it of my own free will. Signed Thomas Quinn." End of second statement.

The filthy language used in the second statement contrasted with the simple but straightforward language in the first statement. The similarity of language in this statement and that of the statement signed by Anthony McCooey, which secured his conviction in the Tullyvallen Orange Hall trial, was striking. Both statements, containing the filthy language and leaking of names, tend to make even people not sympathetic to the British feel revulsion towards the men who were alleged to have made them.

First mention of Townson in this account was when Allen told one of the men present to go to Dundalk to get "Townson or some of the boys". There was no mention of where in Dundalk Townson or "the boys" might be found. The statement indicated that Quinn knew Liam Townson and that he was aware that Townson was on the run. During interrogation by gardai Townson told that he knew all the men mentioned to him except Thomas Quinn and Smith. This brooks the question "Did Quinn know Townson?" They lived in different parishes, were not at school at the same time, moved in completely different circles. The Townson family were interested in parish affairs, Gaelic football, whist drives, etc., and his father played the Church organ. The Quinn family were interested in show

jumping, hunting and bloodstock. They were known to ride to the same pack of hounds as the Northern Ireland Chief Justice Judge Lowry. In both outlook and socialising, the families were poles apart, and would not have any reason to know one another. Townson also claimed he did not know Smith and there was a ring of truth in this claim, because Smith came from Newry and not the Border area covered in this case.

Second reference to Townson in the statement told of him kneeling down beside Nairac and beating him on the head with his fist and gun. The owner of the Three Steps told that it was a fairly dark night and that it was not easy to positively identify people outside the Pub. How much more difficult would it have been for an intoxicated youth to identify a man in the dark behind Ravensdale Forest? In addition to the drink Quinn had suffered concussion when he ran into a wire stanchion supporting an electricity pole beside where he had parked his car. It took some twenty minutes to revive him and he had a large swelling on his forehead which bore testimony to his accident. The omission of any reference to this incident indicates a very incomplete account of events at Ravensdale. The claim that Quinn heard Townson use the words "Fuck you its only blanks" does not stand up in the light of other information given about the peculiarities of the gun used. The expression was also alien to Townson and his parents, and this was further borne out when Townson was described as a man with a conscience by gardai. The alterations in the time that Quinn and Murphy left to collect the car owned by Bell appear to have been made for the purpose of securing a conviction against Townson or at least preparing a case against him. That they went to collect Bell's car cannot be doubted, but outside that issue nothing in the second statement can be checked for detail which might help its credibility. To add to the question of credibility there was only one policeman present when Quinn made or signed that second statement.

Quinn claimed that he saw a driving licence produced by the driver of a car which passed up the narrow road from the hump-backed bridge and that the name of the driver was Hamill. There was no person of this name living in the area nor was there one of the name in the Electoral Register for Ravensdale. No evidence of any sort was produced to support his assertion that at about one a.m. on a May morning a complete stranger should used this road. The implied claim that Nairac's body was left lying in the field overnight does not stand up to scrutiny. The owner of the field had sheep grazing down by the river and when he looked at them on the Sunday morning saw no signs of a body. The many people who used the road on Sunday to go to Mass in Jonesborough also failed to see the body or anybody acting suspiciously. The road, while narrow was tarred and in good condition, and not a dirt track as indicated in some of the RUC-induced statements.

ARREST AND TRIAL OF LIAM TOWNSON

On the afternoon of Saturday 28th May 1977 Inspector Courtney issued a general directive to gardai in the greater Dundalk area to arrest named men in connection with the Nairac case. They were to be arrested under Section 2 of the 1976 Act. In the event only one of those named was arrested and that one was Liam Townson. His arrest posed no problems, as the arresting gardai waited until he was being driven to Dundalk for his

customary Saturday night drinks. He was arrested shortly before nine o'clock and taken to Dundalk Garda Station where he was put into a cell. At 9.15 he was taken for his first period of interrogation which was described in detail at his trial which commenced in The Special Criminal Court, Dublin, on 10th October 1977. There is no jury in this Court, which sits with three judges. On this occasion they were The Honourable Mr. Justice D'arcy, His Honour Judge O'Connor and District Justice O'Hagan representing respectively the High Court; Circuit Court and District Court. Presenting the case for the State or Prosecution was Mr. McDonald S.C., and assisting him were Mr. O'Flaherty S.C. and Mr. Kearns B.L. The defence was led by Mr. McEntee S.C. assisted by Mr. Connolly B.L. and instructed by Mr. Donald Carroll, solicitor.

Opening the case for the prosecution Mr. McDonald said "The offence charged here arises out of the death of one Robert Nairac on the 15th May 1977, in the County of Louth. It is alleged that the accused murdered Robert Nairac on that occasion by shooting him through the head with a revolver. Robert Nairac was a captain in the British army stationed at Bessbrook Mill, Co. Armagh, and it is the case that he left his station on the evening of the 14th May and that he subsequently went to a public house called "The Three Steps Inn". It is alleged that, sometime after midnight he was taken from that place by a number of men, his car being parked outside the premises where it was found to have some damage; a broken mirror, and blood-stains were found on the roadway beside the car, ------. It is alleged that the shooting took place at a place called Ravensdale Park, Dundalk. ------. You will have evidence that will satisfy you that in that field there had been considerable bloodshed, stones and grass marked with blood at different points, and you will have evidence that that blood can consistently have come from one person in a particular blood group. **WE ARE NOT IN A POSITION TO GIVE EVIDENCE IN RELATION TO THE BLOOD GROUPING OF CAPTAIN NAIRAC.** ------ There was a hue and cry out for Captain Nairac, and a search was carried out by gardai in that area, and also in the North, and his body has never been found since that particular day, and you will be satisfied on the evidence that he was in fact shot and killed by the accused." There followed details of the arrest and much evidence which the Judges ruled inadmissible.

The reference made by Mr. McDonald to his not being in a position to give evidence in relation to the blood grouping of Nairac, was, to say the least, surprising. Surely British army medical records should have provided this information? Blood samples from the parents of Robert Nairac would have been of great help to the trial judges. Blood contains a number of substances which can occur in differnt forms or groups which can be recognised in laboratory testing. These groups are a reflection of inherited factors and they are persistent in the blood from birth and constantly throughout life. They can be given a frequency of occurrance in a population. Each group present in the blood of an individual is inherited independently of all other groups. Thus it is possible to ascertain the blood groups in a sample of blood and on the basis of the results to give the blood a degree of individuality when the frequency figures in a population are known. If two blood samples differ in one or more groups then they cannot have a common source.

Evidence given in the trial of Liam Townson indicated that the blood found at the Three Steps and Ravensdale Forest was rare and only about one in every five hundred people in the South Armagh had similar blood. Despite this evidence the prosecution did not give the grouping to which the blood allegedly belonged. This failure to give any details of the blood found or any details of Nairac's blood grouping casts doubt on the prosecution case. Somewhere in British army, hospital or school medical records there must have been details of Nairac's blood grouping. There was no evidence before the Court which would indicate that the parents of Nairac were asked to give blood samples to ascertain whether or not the blood found was that of a child of their union. Parentage was not established in the Court and this strange omission begs the question "Was the soldier involved a child of the Nairacs of Stonebridge?". Who was the man known in this case as Captain Nairac?. Who were his parents?. Time may see these questions answered and the truth established.

Should the trial Judges consider Rights or Constitutional Judges Rules to have been deliberately violated while the accused was in garda custody all statements, signed or unsigned, made after the violation should be ruled inadmissible as evidence. Ever since the Senator Fox murder trial, in 1974, there has been concern among a large section of the Irish people, North and South, about the methods used by members of The Technical Bureau Unit under Inspector Courtney during the interrogation of suspects. The ready acceptance, by the Judges of the Special Criminal Court, of incriminating statements alleged to have been made to Inspector Courtney or **immediately after interrogation by Courtney** to other gardai, has worried many lawyers.

After the initial story of the arrest was given to the Court, evidence was given by members of the British army and RUC in relation to the scene at the "Three Steps" following the abduction of Nairac. The evidence given by RUC man, Sergeant McCann, was such that the possibility of Nairac having been fatally injured at the scene could not be ruled out.

Mr. McEntee - Would it be fair to say that signs you saw in the car park at the Three Steps indicated a fairly violent struggle?

Serg. McCann - That was my impression.

Mr. McEntee - Could you indicate how much blood there was about there?

Serg. McCann - Well, it would be hard to estimate. The ground was covered in gravel. I had somewhat soaked through the dust. If my memory serves me right there was a pool of blood about four palms wide. The blood continued for 20 yards along the main road in the direction of Forkhill in splashes approximately one inch square.

Mr. McEntee - Somebody had been bleeding vigorously?

McCann - That is correct.

This short extract indicates that the person bleeding, probably Nairac, could have been fatally injured in the car park.

Before detailing extracts of evidence given by the garda interrogation team, it is well to recall that the prisoner, Liam Townson, had been up the previous night with a Local Veterinary Surgeon and had little sleep.

First members of the "team" to give evidence were Sergt. Corrigan and Det. Hynes. Giving direct evidence to the Court on the second day of the trial Corrigan told the Judges "I told him we were investigating the disappearance of Captain Nairac in Ravensdale on the night of 14-15th

May 1977, and I believed he could assist us in our enquiries."
Mr. McDonald - Did you caution him? I did, my Lord.
Mr. McDonald - Please give the words of caution?
Corrigan - "You are not obliged to say anything unless you wish to do so but anything that you do say will be taken down in writing and may be given in evidence." The prisoner's reply, Sergt. Corrigan said, was "I want to say that I know nothing about Captain Nairac or any other captain. I was not involved in killing anyone."

Sergt. Corrigan then told that Det. Hynes asked the accused to account for his movements on the night of the 14th day and got a reply that Townson was in Leonards Pub, Bridge Street, where he had a few drinks and he later went to the Cabin Bar in Church Street where he stayed until closing time or around 12 o'clock. He then went home to Fagan's where he slept in bed for the rest of the night. Corrigan told the accused that he did not believe him, and asked him to "tell the truth about the matter".

Mr. McDonald - What did he say?
Sergt. Corrigan - I was not involved in the disappearance of Captain Nairac and know nothing about him.

There was much repetitive type information in the next dozen questions and answers until question 164 was asked.

Mr. McDonald - Now was anything else said?
Corrigan - We both asked him on a number of occasions at this stage if he had been in a field at the back of Benny Kennedy's house on the night of 14-15th May.
Mr. McDonald - Yes?
Corrigan - **Oh, Jesus, lads, I was not there.**

Sergt. Corrigan was cross-examined by Mr. McEntee.

Did you take any steps to discover what the wishes of your superior officers were as to who should interview him, if anyone?
Corrigan - I didn't, my Lord.
Mr. McEntee - So you took no instructions from anyone as to what course should be adopted, is that right? - That is correct, my Lord.
Mr. McEntee - Were you at any meeting when the procedure that followed an arrest was discussed?
Corrigan - There was no discussion as such, that a direction was issued by our authorities, that a number of people, if seen, were to be arrested under Section 2 of the Emergency Powers Act for possession of firearms.
226 - Who gave you instruction?
Detective Inspector Courtney gave it to me.
234 - Are you telling their Lordships that you embarked on a six and a half hours interview without any reference to any other member of this investigation team or without reference - if I may use the phrase - to the Interrogator-General, Detective-Inspector Courtney?
That's correct, my Lord.
240 - ------ You weren't keeping Mr. Townson out of his bed to no purpose. Now, what was your puspose? --- "I was investigating a serious crime and I had information in my possession which led to believe that the defendant, Liam Townson, was implicated in this crime."
244 - ------ you knew perfectly well who Mr. Townson's associates were, and for that matter, what his haunts were, isn't that right? -- I did know

some of them, but I wanted to see anything more, what he had to offer, how truthful he was, what type of person he was.
245 - Am I right in thinking that your state of information when you commenced this interview, was that there were a number of people in custody in Northern Ireland, who had made statements implicating Mr. Townson in the murder of Captain Nairac? -- "That is correct, my Lord. I also had other information in relation to the commission of this crime."
246 - That being so, perhaps you would tell their Lordships what the purpose, the real truthful, basic purpose of this six and a half hour intreview was? -- Well, some of the people who were his associates lived in close proximity to where the crime occurred, and I was endeavouring to establish the full facts of the case.

In due course it was established that only two and a half pages of notes were written by Serg. Corrigan in the 6½ hours of interrogation. Corrigan described how on occasions he thought Townson was going to tell the truth.

Mr. McEntee - How did you follow those moments of anticipated break-through?
Corrigan - By asking him to tell us the truth.
Mr. McEntee - You just kept saying "God boy, Liam, tell us the truth, or words to that effect?" --
Corrigan - I just asked him to tell me the truth, tell us the truth.

Corrigan told the judges that he did not spend 6½ hours asking "Tell us the truth."

306 - Well for how long? -- At different stages in the course of the interview, I asked him to tell the truth. That's all I was interested in, establishing the truth.
307 - You kept on reiterating that? -- That is correct, my Lord.
308 - How did you decide to terminate the interview? -- I didn't decide to terminate the interview.
309 - Well, how did the interview come to be terminated, in that event -- Two other members came into the room -- Garda King and Garda Staunton. -- They came into the room and I left it.
315 - Two people just wandered in, and you just upped and awayed, is that right? -- That's correct, My Lords.

Sergeant Corrigan further told the court that he did not have any talk with the two incoming gardai nor did he have any conversation with any other member of the team. He did not show them his notes. He also told the judges that he did not see any signs of strain or fatigue on the prisoner when he left at 3.45 a.m.

In reply to question 356 Corrigan said -- Well, I took possession of my notes which I made at the time, and terminated my duty. I left the station and I didn't communicate with anybody.
357 - Sergeant Corrigan, is that not consistent only, and exclusively, with my proposition, which is that your purpose in being there was to be part of the process of overbearing Mr. Townson's will and requiring him ? -- That is not correct ------ I was a member of a team investigating a serious crime and in the course of that investigation I was only one of a number who interviewed the defendant, Liam Townson.

360 - That also is clear. I want to know how you can give any logical account of what you were doing for 6½ hours, in view of what you told us, that is consistent with anything other than an effort to overbear Mr. Townson's will and to make him make a statement sooner or later, whether he liked it or not? It was not my intention, my Lord, at any stage to overbear Mr. Townson's will or to get him to make a statement.

Detective Garda Hynes gave similar information in his direct evidence. In cross-examination he told of his checking out the whereabouts of Townson on the night of 14th-15th May and having found it (246) "a hundred per cent correct."

An indication of Detective Hynes's thinking became apparent in reply to question 197 - And the truth, as your state of mind then was, was that Townson was involved in this murder, and that the only truth was a confession? -- We asked him to tell the truth about the matter and he **declined** to do so. He denied any involvement in the case. Mr. McEntee put several questions to the witness about his failure to cease questioning the prisoner after the prisoner's clear denial of any involvement. Question 201 -- If you take the law seriously, that a person has a constitutional right not to incriminate himself, why didn't you, for your part, say "Well, so be it; if you do not want to make a statement you have a right not to make a statement - Goodbye? -- "I just continued on in the room speaking with this man."

202 - But why? -- "I felt it was part of my duty."

In reply to question 205 Hynes told the judges "We did not ask him to make a statement." He also told them that he took no notes of what went on during his six and a half hours with Townson, and that the accused was not asked to sign the notes taken by Sergeant Corrigan nor were they read to him. During the 6½ hours the prisoner had three drinks of water and nothing to eat.

The thrust of defence questioning appeared to centre on establishing that there was a co-ordinated plan to break the will of the prisoner by continuous interrogation, using teams of interrogators. Serg. Corrigan and Det. Hynes denied that there was any such co-ordination, and that they consulted no one before they commenced questioning. Their claim that Townson showed no signs of fatique hardly squares with the prisoner's reply "Oh, Jesus, lads, I was not there" - surely these words indicated fatigue and were a type of last resort appeal to leave him alone? Serg. Corrigan's claim that he did not divulge the contents of his notes to his superiors or any other person working on the case was surprising, and begs the question, Why?. Was it because the interview room was bugged and other members of the interrogation team were listening to the interview during the 6½ hours? Was it because the entire 6½ hours were tape-recorded for the benefit of the team?

The second interrogation team of Gardai King and Staunton stayed with the prisoner until 5 a.m. Guard King told the court "I put it to him that because of his rank in the IRA he should know something about it. He denied that he had any position in that Movement." In cross-examination he told the court that Inspector Courtney told him to have a few words with Townson. He had been told this earlier that night and had not seen Inspector Courtney after the came to the Station at 3 a.m. He was not told

to take over from Serg. Corrigan and Det. Hynes; he just went into the Interview Room, and they left. He had taken no notes during the interview. Similar evidence was given by Guard Staunton who added that Townson had said nothing that was helpful, so he did not bother taking notes during the interrogation. Guard Staunton was tired about five o'clock and indicated this to Guard King, so they terminated the meeting and returned the prisoner to the Station Orderly, Guard John O'Connell.

The Station Orderly gave evidence that he placed Townson in a cell beside a man who was drunk and disorderly. This guard described the man " --- very noisy, he wasn't continually noisy but he made the odd burst in the cell" --- he translated the "odd burst" -- "He shouted occasionally and hammered on the cell door." Guard O'Connell did not know whether the prisoner had shoes on when he was handed over by Guards King and Staunton but he saw no shoes in the cell when he entered it at 5.30 and 6 a.m. On both occasions he spoke to the prisoner who was awake. He admitted that there was a peep hole to observe the occupants of cells but he did not use it. The prisoner was lying in bed with all his clothes on - except shoes. Speaking about the interviewing gardai, he said that once they were established, no records were kept of their coming and going. " ------ there was a team of members in the Station, ------". This evidence clearly established the presence of a team in the Station and also that the prisoner had no sleep up to 6 a.m. At 11 a.m. he was offered breakfast but refused to have it, and half an hour later he was taken to the Interrogation room. At this stage interrogation was taken over by men from the Technical Bureau who had been nick-named "The Heavy Gang".

HEAVY GANG ?

The first two members of the "Bureau" who went into action were Detectives Godkin and Dunne. Their initial stint with the prisoner lasted from 11.40 a.m. until 4.30 p.m. Godkin was first to give evidence and he told the judges that "in his opinion Liam Townson was a young man with a conscience" but that he had made up his mind that he was guilty. He was asked bout this.

119 - From where did you derive your curious infallibility?

I had read five statements and I was satisfied from reading those that the accused, Liam Townson, was involved in the killing of Captain Nairac.

120 - It never occured to you that those five statement might not necessarily be true?

I was satisfied, my Lord, that they were basically the truth.

After this the witness told the court that he repeatedly asked Townson to tell the truth but without success. He denied that he had forced Townson to stand or that he leaned on his shoulder during the interrogation. He also denied that Det. Dunne had banged the table or called Townson a callous, brutal and murdering bastard. All other suggestions about handing Townson over to the RUS/SAS etc. met with similar responses. At four-thirty he was relieved by Inspector Courtney and Sergeant Canavan and told them "He won't admit being involved in the murder". Det. Dunne gave similar evidence.

The Big Two, Inspector Courtney and Sergeant Canavan, took over at 4.30 and kept up the interrogation until 7.10 p.m. At that stage Townson's older brother Rory was waiting in the Garda Station to see the prisoner. Little emerged from this period of questioning in which the two gardai told that they did not believe Liam Townson's account of his movements on the night of 14th May 1977. Townson had not eaten since his arrest 22 hours earlier. Sergeant Canavan told the Court that the prisoner asked for tea and bread and was given it with his brother at about 7.15 p.m. Canavan also gave details of Townson's movements on the night. He said that the prisoner had claimed he was driven home to Fagan's by "Jim McArdle" who was from Keady, County Armagh. When he asked why Townson was staying at Fagan's, he was told that he had been beaten by British soldiers and had lived in Fagan's since July 1976. Townson was unable to give the number of McArdle's car but he was able to tell that it was "A white Ford Cortina, Mark 3."

Townson had his cup of tea and a short meeting with his brother (7.12 to 7.15) before he was again interrogated by Detectives Godkin and Dunne lasting to 9 p.m. Evidence given to the Court indicated that the same, "Tell us the truth", and "Account for your movements on the night of the 14th", questions were put to the prisoner. He gave the same answers. At nine o'clock Detective Gethins and Garda Clune took over and the same questions were put to the "victim" with the same truthful answers. The evidence given by Gethins differed in some respects from the accounts of the other interrogation sessions. He said that he had asked Townson if he knew Tom Quinn or Gerry Murphy, and Garda Clune asked if he knew three other men I have identified as Mr. A. Allen, Mr. B. Bell, and Mr. S. Smith. Townson said he knew three of them but not Quinn or Smith. Questioned as to the reason he had mentioned these men, Detective Garda Gethins told the Court --

115 - "Because they had been mentioned in statements I had read, as being men who had been involved in the killing of Captain Nairac."

-- Why, before asking him if he knew these people, did you not caution him?

122 - I didn't caution him, my Lord.

123 - I know you didn't. I am asking you why not. You have a constitutional obligation to protect the rights of citizens. I want to know why you chose on that occasion not to do so?

"I didn't my Lord" and "I don't have any reason. I didn't caution him, my Lord."

Detective Gethins told the Court that he left the interview room at about 11.25 p.m. to get a packet of cigarettes or a message or something, and that he met Sergeant Greer who told him the Townson's solicitor had phoned, and Greer asked him to convey the message to Townson. He told the Court that he did so. The interview terminated at 11.45 because Townson was feeling tired and wanted to go to bed. When they went down to the office Townson's brother, Rory, and sister, Sheila, were waiting to speak to him. Sergeant Greer supervised this family visit, and the witness went home at 12 o'clock without meeting any of the investigation team or leaving any messages.

Grave doubt was cast on the evidence of this guard when Inspector Brian McCabe was in the witness box. The Inspector told the Court that he

had spoken to Det. Gethins at 11.45 or 11.50 p.m. and that they had discussed the solicitor's phone call. The Inspector further informed the Court that Sergeant Brown, the man who was co-ordinating the operations into the Nairac affair, was at the Dundalk Garda Station at mid-night. He was at the entrance door and it was at this time that Detective Gethins left the Station. It is stretching the imagination to the limit to believe that Det. Gethins walked out past the Sergeant without seeing or speaking to him. The same remarks could apply to some of the evidence given by Guard Clune, the second member of the 9 - 11.45 p.m. interrogation team. The last few words before this guard left the witness box suffice to demonstrate this. Mr. Justice O'Hagan had asked many questions of Guard Clune and finished "I find that very hard to believe, but, however - thank you." Much that happened immediately after Mr. Carroll made his phone call was obscured by "**peculiar**" garda evidence, so, before dealing with the events of Monday 30th May 1977 an examination of the part played by defence solicitor, Donald Carroll, is appropriate.

MR. DONAL CARROLL

One of the most unusual features of this trial was the decision of defence solicitor, Donal Carroll, to go into the witness box and give evidence under oath. He told the judges of receiving a phone call on Sunday 29th May 1977 at 11 p.m. asking him to act for Liam Townson. At 11.45 p.m. he rang Dundalk and asked to speak to the Sergeant in Charge. He identified himself as Donal Carroll, Solicitor, from Dublin, and gave his telephone number so that the gardai could ring back and confirm his authenticity. This evidence led to question 363 (26-10-77) How did he (guard) respond to that?

He asked me to wait a few minutes and he would check.

364 - Did you wait a few minutes?

"About two minutes later the same voice came back to the 'phone, and he told me that all the gardai dealing with this case had gone home for the night and I couldn't see my client, until some of the gardai who were dealing with the case returned to the Station. I asked him was this not rather unusual, that surely he would clear a visit for me. He said no, that some of the gardai dealing with the case would have to grant the visit. I complained and told him this was highly unusual, that I had never met such an attitude before. I told the Sergeant in charge that I would be at home all night, that I usually went to my office at 9.30 a.m. I gave him my office numbers and said I could be contacted there from 9.30 the following morning."

In reply to more questions Mr. Carroll told that he was not telephoned at his home nor at his office next morning. At a quarter past ten he telephoned Dundalk Garda Station himself, and asked for the Sergeant in charge. The voice identified himself as the Sergeant in charge. I identified myself and again gave my telephone number. I told him I wanted to see Liam Townson and asked him to clear a professional visit. This is the normal practice in such cases, and some minutes later I was told that No, my visit would have to be cleared by a member of the gardai dealing with the case." The Sergeant in charge told him that he would get one of the men on the case to ring as soon as they came in, and that would be within

the hour. He was not telephoned and he again range the Dundalk Garda Station at 12.40. As on the other two occasions, Mr. Carroll told he wished to speak to the Sergeant in charge, identified himself and gave the reason for his telephoning. Again the Garda on the other end said that none of the men dealing with the case was in the Station, and that Mr. Carroll couldn't have a visit. He said Mr. Carroll would be telephoned within the hour but he got no call. At twenty to three he again rang Dundalk Station and asked for the Sergeant in charge. The man on the other end identified himself as the Sergeant in charge, and Carroll referred to his previous calls. The sergeant said he would check and shortly afterwards returned to the 'phone and again said that the Gardai dealing with the case were not present. I asked the Sergeant to note that I was complaining. The Sergeant said that Mr. O'Carroll would be telephoned within the hour.

418 - On this occasion, you had had enough? - Yes, my Lords.

419 - What did you do? I got into my car and drove to Dundalk Garda Station. As soon as I put down the 'phone, I got into my car and drove to Dundalk. I got to Dundalk Garda Station at ten minutes to four.

423 - Can you be sure of that time? I am certain, my Lords - How? By checking my watch as I drove into the Station yard.

425 - Is your watch reliable? - Oh yes, my Lords.

426 - "I parked my car - In this case, a few seconds, directly outside the steps of the Station and went up to the enquiry office. I knocked on the enquiries window, and a young fair-haired Garda in uniform opened the little window. I told him who I was by saying that I was Donal Carroll, Solicitor, from Dublin, and wished to see my client, Liam Townson. He said he would make enquiries, and went off behind a partition. About two or three minutes later he returned and asked me did I mind waiting a short while. I said certainly not but would it be very long, that I had travelled from Dublin. ------ I stayed in the enquiries office, looking at a large window on to the Station forecourt with my back to the Enquiries window. I was still waiting there approximately ten minutes. ------ I walked over and told the Garda that I had been there ten minutes. I told him surely I could see my client immediately and was told "You will have to wait." I told him I was going to stand at the main entrance to the Garda Station, which is just outside the Enquiries office." Later a Sergeant Browne who was operations director spoke to Mr. Carroll and told him that he could see his client at five o'clock. When Mr. Carroll complained in the strongest possible way the Sergeant said "There is nothing I can do. I was told to give you a message and I am doing that." It later transpired that Mr. Carroll was not permitted to see his client until shortly after seven p.m. when he was brought to a small room. He described events from that moment vividly.

546 - Is that the room that you were brought into? - It was the small room.

547 - What furnishings did the room have? - It had a table and a number of wooden chairs and a steel locker.

548 - Who was in that room? - There were two plain-clothes Detectives Rory Townson, Liam Townson and Inspector Murray and myself.

549 - Was this the first time that you had ever seen Liam Townson? - Yes, my Lords.

550 - How did he appear to you? - He was crying, my Lords, with his head

resting in his hands. He was sitting on a hard wooden chair behind the door. I asked Inspector Murray to have a private visit and he called the two plain-clothes Detectives from the room.

551 - That would appear to leave you, Liam Townson and Rory Townson? - Inspector Murray and the two plain-clothes Gardai left the room. I closed the door beside Liam Townson and his brother introduced me to him.

552 - Did you tell him why you had come? - I told him I was instructed to appear for him and act as his Solicitor.

553 - How did he respond to that? - There was no response, my Lords. He sat with his head in his hands, crying.

554 - Was he saying anything? - Yes.

555 - What was he saying? - He said, "I don't want to die. I don't want to die and please don't give me back to the SAS."

556 - Did he appear to understand the significance of who you were and what you were doing there? - No, my Lords. I had no conversation with him, except he repeatedly said: "I don't want to die. Please don't give me back to the SAS."

557 - What did you do in response to that? - I told him that he couldn't die, that he couldn't go back to the north, without the appropriate Court order.

558 - Did he appear to understand what you were saying? - I tried to assure him that I was there to help him and that nothing could happen to him while he was in police custody. There was no response.

559 - No response? - Except he continued crying, my Lords, and repeatedly said "I don't want to die, I don't want to die. Please don't give me back to the SAS.

560 - How long did that go on for? - For about ten minutes. At one stage during that ten minutes, I shook him. I put my two hands on his shoulders and shook him and told him to pull himself together.

561 - Did he succeed in pulling himself together? - No, my Lords, he continued crying.

562 - Were you able to get any sensible instructions from him? - No, my Lords. I knelt down on my knees in front of him. I put my two hands on his knees and gave him certain advice.

563 - You cannot tell us what you told him? - I told him I would return the following evening, after my business work, at about 7 o'clock.

564 - Did you form any view as to his capacity to give you coherent instructions? - He could give me no instructions. That is why I left. I was with him for about ten minutes. I could take no instructions from him and then I left.

565 - When you left, did you leave his brother with him? - I asked Rory Townson would he stay on for a talk with his brother, as obviously, he knew him better than he did me.

DEFENCE SUBMISSION OVER RULED

On the strength of Mr. Carroll's evidence, Defence Counsel, Mr. McEntee invited the Court to rule that this denial of access to his solicitor was a violation of his client's constitutional rights. He also claimed that there were several other violations of judge's rules and constitutional rights. On the 18th day of the trial the judges ruled on these submissions:

"As a matter of law the onus rests with the Prosecution to establish to the satisfaction of this Court beyond a resonable doubt that each of these statements is a voluntary one, that is, that it was made by the accused without inducement or threat, and also that it was not taken in circumstances of or as a result of oppression. A like onus rests on the Prosecution to establish that in taking the statements the Guard complied with the judge's rules. ------ It is convenient to deal with the constitutional rights first ------ We hold that the admitted right of a prisoner to reasonable access to his legal advisor is a constitutional right.

We shall consider next whether ot not there was in this case any breach of such rights and the consequence of such breach. (Having dealt in detail with Mr. Carroll's evidence, the judges continued) Sergeant Greer ------ agrees that Mr. Carroll did telephone the station at 11.15 p.m. on the night of Sunday the 29th May 1977 ------ but denies Mr. Carroll's version of the content of the call. ------ The sergeant's account gets support from the evidence of Inspector McCabe, and Detective Guard Gill. Referring to the telephone calls alleged to have been made by Mr. Carroll at 10.15 a.m., 12.40 p.m., and 2.40 p.m. on Monday the 30th May the following officers gave evidence (6 named) --- all of whom deny the receipt of such telephone calls or call. ------ Having very carefully considered and deliberated the matter we regret that we cannot accept Mr. Carroll's evidence and where a conflict exists we are satisfied beyond a reasonable doubt that the truth lies in the evidence of Sergeant Greer, Guard O'Connor, Guard Clune, Sergeant Conneally, Sergeant Tully, Sergeant Prenty, Superintendent Murtagh, Inspector McCabe and Inspector Murray. We hold that there was no infringement of the accused's right of access to his solicitor prior to 4.00 p.m. on Monday 30th May 1977. We are satisfied that there was an infringement of the accused's constitutional right of access to his legal advisor, Mr. Carroll, between 4.00 p.m. and approximately 7.15 p.m. on the afternoon of Monday the 30th May ------ Accordingly and subject to one reservation, any statements made or exhibits recovered in consequence of any statement made during this period are not admissable in evidence. ------ verbal statements alleged to have been about 3.40 to Inspector Courtney and Guard Canavan, and the volunteered statement alleged to have been made in the station about 7.45 to Superintendent Murphy, Inspector McCabe, Guard Lane are not tainted with constitutional irregularity. --- We must now consider whether these two remaining statements were voluntary; whether they were obtained in violation of the Judges Rules. Approaching these questions we again repeat that the onus lies on the prosecution to satisfy us beyond reasonable doubt that each of these statements was a voluntary one; that it was obtained without inducement or threat ot induced by oppression. A similar onus lies on the prosecution to establish compliance with the Judge's

Rules. This is a matter of law. Further, if there were - if there has been - any breach of the Judges Rules the onus lies on the prosecution to satisfy us beyond reasonable doubt of valid reasons justifying or excusing such breach as a matter of judicial discretion. At no time is there any onus on the accused in respect of these matters. The accused was arrested at 8.50 p.m. on Saturday the 28th May 1977 and brought to Dundalk Garda Station. Between the hours of 9.20 p.m. that night and 3.45 a.m. on the following morning he was interviewed by Sergeant Corrigan and Detective Guard Hynes. Having heard the evidence of the Sergeant and Detective Guard and of the accused we are satisfied that no inducement was offered or threat made during this interview nor was the interview in any way oppressive. The accused was cautioned. He denied all knowledge of Captain Nairac or any involvement and gave what purported to be an account of his movements on the night of the 14th/15 May 1977. [1]**This account was proved to be accurate as far as it went**. No written record was made of this interview. During the interview the accused alleged that he was threatened that he would be put across the Border. He was also threatened that he was wanted for three murders in Northern Ireland. He alleged that he was put up against a wall. He alleged that his shoulders were held down and that he was shouted at. We do not accept any of those allegations and reject them and reject each of them. The accused was further interviewed by Guard King and Guard Staunton at 3.45 a.m. to 5.00 a.m. on the same morning. He was questioned about the disappearance of Captain Nairac but denied all knowledge. The accused repeated the account of his movements which he had previously given. [2]**At the end of this interview the accused according to the evidence of Guard Staunton, which we accept, was calm, relaxed, and showed no signs of fatigue**. Both Guards gave evidence of written notes of this interview but no written record of the interview was proved before us. There is no evidence that there was any inducement made or threat offered during his interview. From 5.00 a.m. until 11.40 a.m. on the morning of Sunday the 29th August the accused was in his cell. [3]**During part of this time at least there was evidence that he was asleep**. Between 11.40 a.m. and 4.50 p.m. on Sunday the 29th May the accused was interviewed by Guard Godkin and Guard Dunne. During the course of this interview he maintained denials that he had given on the previous. During this interview the accused was visited by his brother Rory and sister Sheila. We are satisfied that during this interview there was no threat or inducement. A caution was administered. No written record of this interview was proved in evidence before us. Between 4.30 p.m. and 7.00 p.m. on Sunday the 29th May the accused was interviewed by Detective Inspector Courtney and Detective Guard Canavan. There was a general conversation. The accused repeated the account he had already given of his movements on the night in question. There was conversation about the accused's work and of his family. No written account of this interview was made or proved before us. The accused was further interviewed by Guard Dunne and Guard Godkin from 7.50 p.m. to 9.00 p.m. on Sunday the 29th May. The accused was asked to tell about the murder. He said he knew nothing about it. There was a general conversation. No written record of this conversation was made or proved before us. During this interview or at the earlier interview between

11.40 a.m. Saturday night and 4.50 a.m. Sunday morning (at which interview it is not clear) the accused alleges that Guard Godkin threatened to put him across the border [4]**and called him a callous brute**. This allegation we do not accept, and reject. We are satisfied that during this interview no threats were made or inducements offered. Between 9.00 p.m. and 11.30 p.m. approximately the accused was interviewed by Guard Gettins and Clune. The accused was asked if he knew both of these officer and he said that he did. He was asked where he was on the Saturday night and the Sunday morning the 14th/15th May between 10.00 p.m. and 2.00 a.m. He gave the same account - he gave the same account he had formerly given. Detective Guard Gettins asked the accused about the murder of Captain Nairac. The accused said he knew nothing about it. The accused was asked was he ever in a field at the rere of Kennedy's, Ravensdale. He said he knew the field but was never in it. At about 11.30 p.m. the accused was told by Guard Gettins that Mr. Carroll, Solicitor, had phoned and would be seeing him in the morning. At this interview we are satisifed no threats were made or inducements offered. No written record was made of this interview or proved before us. [5]**After this interview at 11.30 p.m. the accused was put in his cell** where he remained until 8.15 the following morning. [6]**During this period there is evidence which we accept from Sergeant Coggins, Guard Gannon, Guard O'Connor that the accused was asleep**. It was alleged by the defence that during the night there was noise in Dundalk Garda Station sufficient to keep the accused awake. We reject the suggestion. On the morning of Monday the 30th May between 8.15 a.m. and 10.30 a.m. the accused was again seen by Detective Sergeant Corrigan and Detective Officer Hynes. [7]**During this period there was no interrogation and nothing of note occured. The time was occupied by the accused washing himself and having his breakfast**. On Monday the 30th May between 10.30 a.m. and on the afternoon 3.15 p.m. the accused was again interviewed by Detective Gardai Godkin and Dunne. This was not a continuous interview but was studded with frequent interruptions. At 11.00 a.m. the accused was visited by Dr. McCormack, his own Doctor in connection with a stomach ache of which he complained. At approximately 11.20 the accused was visited by his mother, brother Rory and his sister. At 11.50 a.m. he was visited by Dr. Byrne a Garda Doctor whose views agreed with those of Dr. McCormack. At 1.00 p.m. the accused was visited by Father Power. At 1.30 p.m. he was brought a change of clothes. During this interview no threats were made or inducements offered. No record was made of this interview or proved before us.

Mr. NcEntee points out that in respect of each of the interrogations or interviews commencing at 9.00 a.m. on Saturday the 28th or 2.45 a.m., 11.40 a.m., 4.30 p.m., 7.50 p.m., and 9.00 p.m. on Sunday the 29th or 8.15 a.m., or 10.30 a.m. on Monday the 30th May there has been a breach of the Judges Rules. We agree with Mr. McEntee and take his point. Rule 9 of the Judges Rules provides that any statement should whenever possible, be taken down in writing and signed by the person making it, after it has been read over to him and he has been invited to make any corrections that he may wish. This is a rule of guidance, not of law. It applies equally to excuplatory as well as inculpatory statements — a fact that always seems to be forgotten. In this country the rule seems never if

ever to be observed in respect of exculpatory statements. This is wrong and is very much to be regretted. However when viewed from a practical point of view the reason for this ommission is easy to appreciate. In this as in any other criminal trial the prosecution are highly unlikely to put into evidence an exculpatory statement. The defence cannot put such a statement in evidence as under the general laws of evidence subject to a few rare exceptions a favourable statement made by a man cannot be used on his own behalf. In this as in other cases of non compliance of Rule 9 dealing with exculpatory statements there is nothing before the Court which it can rule out of evidence. This is the only sanction which the Court has to enforce the compliance with the rule. The Court will, however, bear Mr. McEntee's argument and the non-compliance with the rule in respect of these foregoing interviews in mind when dealing with the other interrogations and view them in the general over all context. At 3.15 p.m. on the afternoon of Monday the 30th May the accused was again interviewed by Inspector Courtney and Guard Canavan. The accused was asked how he felt. He said alright. He was asked if he had met his mother, brother and sister and he said yes. He was asked had he been examined by two Doctors and he said yes. He said he had seen the priest and gone to confession. He said he did not want anything to eat. Then Detective Sergeant Canavan said "We are making enquiries into the death of Captain Nairac" and that he believed the accused "could assist us". That's himself and the Inspector. The accused said he could not. The accused then said that five fellows were charged with this, that he knew them, even though he knew nothing about it. Inspector Courtney has given evidence which we accept that at this stage the accused was calm and alert and that he made no complaints although requested to do so. The Inspector has further given evidence which we accept that no threats were made or inducements offered to the accused. The accused then asked "How long will I get for this." Guard Canavan said "I do not know" and the Inspector said "I do not know". The accused repeated this question a few times and then said "I will tell you the truth". At this stage Sergeant Canavan cautioned the accused. "You are not obliged to say anything unless you wish to do so and whatever you do will be taken down in evidence". Sergeant Canavan asked the accused if he understood the caution and the accused said he did. Inspector Courtney gave evidence of what was subsequently said. This evidence is supported by that of Sergeant Canavan and we accept it. It is as follows: The accused then said 'I shot the British Captain. He never told us anything. He was a great soldier'. I was drinking in Leonard's pub. Danny Kelly came in and told me to get a bit of hardware that there was a job to be done. We went out the road in Smith's car. We went to the old ruin of a house. I got my gun, a .32 revolver. We went to the bridge near the road at Ravensdale. I fired a shot on the way to test it. They were all there when I got there. I don't think young McKay was there. I had a lot of drink taken. I asked the Captain who he was. He said I am a 'Stickie'. I asked him who he knew. He said Seamas Murphy. I told him I did not believe him, and he was a British soldier and I had to kill him. I hit him on the head with my fist. I hit him with the butt of my gun also. The Captain said if you are going to kill me can I have a priest. He was in a bad state. I aimed at his head. I only put one into him. The gun misfired a few times. I left the body there and went home across

the fields'. Sergeant Canavan asked where the body was and the accused said he "did not know, that is the truth". This conversation was followed by further conversation which is no longer relevant. There is evidence before us which we accept that the foregoing verbal admission was made between 3.30 or 3.35 p.m. and 3.50 p.m. on Monday the 30th May. **We are satisfied beyond a reasonable doubt that the admission was made by the accused without any threat being made or inducement offered.** We are similarly satisfied that no oppression was used at this or any interview nor did the statement result from the cumulative effect of any acts or defaults on the part of the Guards which could be deemed oppressive and occurring between the times of the arrest at 8.50 p.m. on Saturday the 28th May and the making of the statement. No written record of this admission was proved before us. In fact the evidence establishes that the record was not made at the time and that the first written record was made one and a half hours afterwards when at Proleek Inspector Courtney and Sergeant Canavan made the record in a note book. After taking the admission and before it could reasonably be reduced to writing the Defendant expressed the desire to make a formal statement to Guard King and Crowe whom he knew well. They were not available but were sought immediately. The Court accepts this as the reason why the admission was not reduced to writing. It justifies the breach of the Judge's rules. The Court has been referred to and respectfully adopts as stating the correct principle applicable the views set forth in the judgement of Lord Justice Edmond Davis in the Queen v. Praeger 1972 Criminal Appeal Reports applying the principle there laid down. The Court exercises its judicial discretion. In his evidence the accused denied that he made the alleged admission. In his direct examination the accused denied that he gave Detective Inspector Courtney or Detective Sergeant Canavan a detailed description of the killing of Captain Nairac. In his cross-examination the accused denied that he said "I shot the British Captain. He never told us anything. He was a great soldier". He further denied that he said or made other specific parts of the admission as alleged or deposed to by Detective Inspector Courtney or Detective Sergeant Canavan. We cannot accept the accused's evidence on these points and must reject it. In the course of his evidence the accused made various allegations against the Guards, in particular against Detective Guard Corrigan, Guards Hynes, Dunne and Godkin, Sergeant Canavan. No useful purpose can be served by setting out these allegations seriatim. We do not accept and consequently reject the accused's evidence on this matter. We hold that the verbal statement alleged to have been made by the accused to Inspector Courtney and Detective Sergeant Canavan was in fact made by the accused and was a voluntary one. [8]**In the exercise of our judicial discretion - we accept that non-compliance with rule 9 of the Judges Rules was justified.**

EXAMINATION OF RULING

Much of the ruling dealt with evidence which was not allowed and has been omitted, but there was certainly food for thought in the quoted sections. The bold type is mine, and on each point in bold type, the words of the three Judges are open to question.

[1]"This account proved accurate as far as it went." In this assertion the Judges failed to ask why the gardai failed to interview Jim McArdle. Townson had told the interrogating gardai, and the Court, that he had gone to McArdle's flat to get a lift out home to Proleek. Gardai told the Court that McArdle was from Keady in County Armagh but did not tell the Court that McArdle had been resident in Dundalk for several years at that time (1977). He still resides in Dundalk and to this day has not been interviewed about Townson's claim. The failure of the Judges to comment on the failure of the gardai to interview McArdle was, in my view, just about par for the Special Criminal Court.

[2]"The accused --- was calm relaxed and showed no signs of fatigue". These comments by the Judges were again typical of the Court. The accused had in fact only two hours sleep on the night before his arrest. He had nothing to eat from his arrest on Saturday night until the following night. He had been interrogated continually for seven and three quarter hours and had told the Court that he was so tired that he could not remember the first interview ending and the second one starting.

[3]"During part of this time at least there was evidence he was asleep". The use of the words, "at least", by the Judges suggests that the prisoner may have been asleep most of the time and is indicitative of their apparent desire to show that no oppression was used by the gardai. The Judges used evidence of named gardai to bolster this opinion. Guard O'Connell, who was Station Orderly up to six a.m., had told the Court that he went into the cell at five thirty and again at six o'clock and spoke to the prisoner who was awake on both occasions. Guard Beehan told the Court that he visited the prisoner at six o'clock and he was asleep. Thus two gardai visited the cell at six and the prisoner was both awake and asleep. Townson swore in evidence that he was unable to sleep.

[4]"The accused alleges that Guard Godkin --- called him a callous brute". I was unable to ascertain where the Judges came across these words. Nowhere in the transcript of evidence were these words used. The words which I read were --- "A callous, brutal, murdering bastard". There is a considerable difference in the two expressions. The words, "calous brute", could well be used in a heated reply without much malice but the words, "callous, brutal, murdering bastard", are a different matter altogether, and if used were meant, cold and calculated. A child at school who substituted, callous brute, for the other expression, could well have the work described, by the teacher, as very careless. What should three learned Judges be told? Would biased be strong enough?

[5]"After this interview the assused was in his cell". This was not so. The prisoner met his sister and brother Rory. While in the interview room a senior guard was next door and he spoke with the Detective who had just interrogated Townson. This man later told the Court that he had

spoken to nobody in authority before going home at midnight. They accused was still having his family visit when the Detective left the Station.

[6]"There was evidence which we accept from Sgt. Coggins, Guard Gannon, and Guard O'Connor that the accused was asleep". Had the judges said the accused appeared to be asleep they would have been echoing the words of Guard O'Connor who said, "On all these visits up to 8 a.m. he was asleep, at least he appeared to me to be asleep". There was a clear pattern emerging from the Judges work. All possible credence was given to the suggestions that the accused was not tired, and that he was able to sleep immediately he was put into his cell, i.e., that the interrogation was not oppressive.

[7]"During this period there was no interrogation and nothing of note occurred. The time was occupied by the accused washing himself and having his breakfast. The reality of what happened that morning from 8.15 to 10.30 puts these trite words in their true light.

Guard O'Connor gave evidence of bringing the accused from his cell to the toilet which he used. The accused then washed his hands and face at the tap in hand-basin. The prisoner was left in the interrogation room a few minutes later. Sergeant Corrigan claimed he immediately asked how the accused had slept and he replied "well". Guard Hynes who was also present asked would he like breakfast and the prisoner said no. Corrigan told the Court "--- I asked him to tell us the whole truth about what happened in Ravensdale on the night of the 14/15th May. He said he was not in Ravensdale and knew nothing about the British Army Captain who was missing from Dromintee". About 9 a.m. the accused complained of a pain in his stomach and Serg Corrigan immediately went out and phoned his doctor. With the visit of the doctor established, Guard Hynes went out and got a disposable razor and soap for the accused, presumably to have him look clean before the doctor arrived. Despite the pain suffered by the accused Serg Corrigan continued with his interrogation until 10.30 and did not mention to the two men who took over that the doctor was coming. Breakfast was brought to the accused about 10 a.m. but he declined to eat. He did drink a little tea. After leaving the interrogation room, Sergeant Corrigan told that he had searched the Station in an effort to find a senior officer to tell of the doctor's coming. He also told that it took him between 30 minutes and an hour to find one. ------ Breakfast and shaving accounted for five minutes of the time, My Lords! ------.

[8]"The value and possible bias of the Judges words, written about the statement allegedly made by Townson to Detective Inspector Courtney and Detective Sergeant Canavan, can only be ascertained after a thorough examination of the circumstances of the entire case. All evidence given by Liam Townson which did not suit the prosecution case was brushed aside, as was the evidence of Donal Carroll the defence solicitor. The Judges' reasons for doing so was based on the evidence of named guards whose credibility they did not question.

The Judges named a number of gardai in an effort to justify their rejection of the evidence given by Mr. Donal Carroll, Solicitor. Many of the gardai named, by the Judges, had nothing to do with incoming phone calls, such as those which Mr. Carroll claimed he had made. The

first call was made at 11.15 p.m. on Sunday 29th May, and it was not disputed that the call was made. The call was passed on to the Sergeant-in-charge, Sergeant Green, on being informed by Mr. Carroll that he wanted a visit to Liam Townson cleared, the sergeant asked the caller to wait a minute or two and he would find out if there was anybody dealing with the case in the Station. Strangely the sergeant went, not to the room in which the investigation team had their headquarters, but to the wireless room. Within minutes Inspector McCabe arrived in the Station and Sergeant Greer told him of the phone call from Mr. Carroll. Following his conversation with Inspector McCabe the sergeant went up stairs in the direction of the interrogation room, in which the prisoner was being interrogated. Before the sergeant had reached the room, one of the interrogation team, Detective Gethins, came out and the sergeant had a further conversation with him about the phone call. The detective returned to the interrogation room and informed the prisoner of the solicitor's phone call. Shortly afterwards the interrogation ended and the prisoner was brought down stairs.

Meantime the sergeant who was co-ordinating the investigation operations, Sgt. Brown, mysteriously appeared at the front door of the Station and spoke to Insp. McCabe. By all accounts he did not speak with the two gardai who had just left the interrogation room. The two interrogators beat a hasty retreat from the Station without speaking to any man in authority, or so they told the Court. These activities clearly indicated gardai unease at the possible visit that night by Mr. Carroll; otherwise why all the flurry? The haste with which the interrogation ended after Sergeant Greer called up stairs and the speed with which the two interrogators left the Station were clear indications that Mr. Carroll was expected in the Station that night. Sergeant Greer's activities after the phone call pointed towards the truth of Mr. Carroll's version of the telephone conversation. The actions of Sergeant Greer, a man with many years service in the force, did not support his account of the telephone conversation.

Mr. Carroll claimed that he also made phone calls to the Dundalk Garda Station on the morning of Monday 30th May, and the evidence of several gardai did nothing to refute this claim. The Sergeant-in-charge that morning and several other gardai, who did relief during breaks, did not admit to having received the phone calls from Mr. Carroll. They all admitted that there were other gardai in the Office and it was possible that one or other of these men might have answered the telephone. When the phone diary was produced in Court it was established that few of the phone calls to the Station were recorded, and this applied to both outgoing and incoming calls. One call which was recorded was from Father Faul, Dungannon, and it was recorded, not by the ordinary office staff, but by a member of the detective branch working on the Townson case, Detective Lane. There were days when there was not a single entry in the 'phone diary; so it was not surprising that Mr. Carroll's calls were missing.

Mr. Carroll told the Judges that he telephoned Dundalk Garda Station again at 2.40 p.m. on Monday afternoon and asked to speak to the Sergeant-in-charge. He again sought a visit to his client and was again told that all the men in charge were on a search party. He would be

telephoned within the hour. At this point, Mr. Carroll said he had had enough and told the sergeant to record his complaint. On completition of the telephone conversation Mr. Carroll drove straight to Dundalk. The gardai denied that they recieved this telephone call and the Judges accepted their evidence and rejected Mr. Carroll's account. Were the Judges right in this rejection of the Solicitor's sworn evidence? Was there any evidence which might help to establish whether Mr. Carroll was a credible witnes? Evidence given by Superintendent Murtagh and Detective Sergeant Brown was in my view a clear indication that Mr. Carroll had in fact telephoned at 2.40 p.m. and that their actions were a confirmation that the telephone call had been received.

Superintendent Murtagh told the Court that he had been away for the weekend, and on his return to Dundalk on Monday he went straight to his office. He did not speak to anyone at that time - 1.30 p.m. He did not see a message which was on his desk for an hour or an hour and a half i.e. between 2.30 and 3.00 p.m. He did not say that he recognised the writing and told the Court that the note was about Mr. Carroll's telephone call at 11.15 p.m. on Sunday night. The note was vague so he rang Mr. Carroll's office about 3.15 and asked for him. He was told that Mr. Carroll was on his way to Dundalk.

102 - Mr. McEntee -- Wouldn't the simplest way be to go down stairs and ask the orderly or ask the co-ordinator?
Reply -- The Station orderly at that time would not have been the orderly who had been there in the early part.

103 - He keeps a diary? Yes.

In reply to further questions the Superintendent told the Court that it did not enter his head to check downstairs and he decided to do it the direct way.

111 - As far as your state of knowledge, Mr. Carroll might have been telephoning Dundalk at half nine, or sometime between half nine and between you making your call at 2.30 or 3 p.m.?
That is so.

113 - Were you aware Det./Sgt./Brown was functioning as Co-ordinator in this matter?
"Det/Sgt. Brown had not been in Dundalk when I left my office on Friday night or Saturday morning. I had been away over the weekend.

121 - Were the Northern Ireland statements available to you on Friday?
No. I did not see them or hear of their presence.

125 - How did you know at that stage, on the basis of your evidence, that Mr. Townson was in custody. You had not been in since Friday, had spoken to nobody.
Did you tell Mr. Carroll why you were phoning. How did you know he (Townson) was there at all?
I heard on the car radio that a man was in Dundalk Garda Station.

126 - Did you know who he was?
I asked who had been arrested when I was going in.

127 - Mr. McEntee -- That won't do -- you told us clearly you went straight to your office?
I did.

128 - Now you tell us you spoke to somebody?

I don't know. Nor do I recall having spoken until this arose. Obviously somebody said it. It was on the car radio I heard a man was in custody.

129 - Did you hear his name?
I don't think so.

130 - You asked on the way up what is the name of this man?
Something of that nature.

Did you ask how long he was in custody? No.

The evasive nature of Superintendent Murtagh's replies cast grave doubt on his credibility. His reference to the Northern Ireland statements not having arrived before he left the Dundalk Garda Station at around midnight on Friday night appeared to be in direct conflict with the evidence given to the Court by Inspector Courtney; who had told the Court that the Northern Ireland statements had arrived early that week.

Before examining the Superintendent's evidence in detail it should be pointed out that he had been transferred from Dundalk shortly after Townson had been committed to trial. He had not expected to be called as a State witness and was only told that he would be required to give evidence after the trial had commenced. His memory could well have been blurred in the five months since these events took place, and he might have been influenced by the evidence of other State witnesses. Without doubt there was something amiss with this account of how he became aware that the prisoner in Dundalk Station was called Liam Townson. He was not told by the Station Orderly on his entry to the Station at 1.30 p.m. on Monday 30th May. He told the Court that he had spoken to no one before entering his office. At some stage after he entered the office he became aware of a phone call from Mr. Carroll and he was also told the prisoners name. Could it possibly have been that he was told that Mr. Carroll had 'phoned at 2.40 p.m. and that Mr. Carroll was very annoyed when not given permission to visit his client Liam Townson?

Whether this happened or not the Superintendent telephoned the Solicitor's office in Dublin and was told that Mr. Carroll was on his way to Dundalk. The Superintendent acted in a manner exactly as Sergeant Greer had done the previous night after Mr. Carroll's first telephone call; he went to the Radio Room and got in touch with the Radio Operator. Messages were sent to members of a search party and I suspect to Inspector Courtney. Evidence given by Det. Sgt. Brown gave a clue as to why the Radio Room was first priority on this occasion. The sergeant was in the witness box for much of the 8th day of the trial.

Question 439 - Sgt. Brown, before lunch you told us that you understood that Insp. Courtney had gone to the country about midday and hadn't come back?

A -- That is so, my Lords.

Q 442 - Did you know who he was supposed to have gone to the scene with? Det. Sgt. Canavan.

Q 444 - And was the idea that he would be there all day?

A -- Yes, he told me he was going, in the afternoon with Det. Sgt. Canavan.

These replies clearly indicated that Inspector Courtney was going out to the country in the afternoon and that he would be there for some

considerable time. For some reason Insp. Courtney did not stay in the country for the afternoon but returned to the Station between 3.15 and 4.00 p.m.: Why?. I suggest that, on instructions from Superintendent Murtagh, the Inspector was informed by radio that Mr. Carroll was on his way from Dublin to Dundalk. On his return to the Station, Inspector Courtney, did not notify the man co-ordinating operations, Det. Sgt. Brown, of his presence in the Station. This failure signified a degree of panic not usually associated with Inspector Courtney. Direct evidence given by Sgt. Brown adds weight to this argument.

Q -- Tell us what conversation took place between yourself and Mr. Carroll?

Answers 321/24 -- I introduced myself and Mr. Carroll spoke to me, and said that he had come to see his client Liam Townson, that he had a right to see him and that if he didn't see him, he would go to Court to establish his right. I told him that there was no need to go to the Courts to establish his right, that I would facilitate him. I then told him that the officer in charge of the case, Inspector Courtney, was not available at the moment but if Mr. Carroll called back at 5 p.m. I would look after him. ------ I believed that Inspector Courtney and Sgt. Canavan were at the scene in Ravensdale Park.

Mr. McEntee questioned Sgt. Brown about the substance of this evidence and asked did Sgt. Brown ask Inspector Courtney how long he would be out?

The sergeant replied (407) "No, my Lords, I didn't. It was usual for Inspector Courtney on his return from duties such as this, to call back to the investigation office to enquire about anything that may have happened in his absence."

In reply to further questions the sergeant told that he believed at the time that Insp. Courtney was out at Ravensdale Park from 2 p.m. to 3.30 p.m. or more. Later he told that "I now believe he was back at half three".

This evidence helps to establish that Inspector Courtney acted in an unusual manner on his return to the Station, and that Mr. Carroll was very annoyed when he arrived at the Station from Dublin. All these incidents, following Inspector Murtagh's phone call to Mr. Carroll's office, establish that the solicitor did in fact telephone the Dundalk Garda Station at 2.40 p.m. and his version of what was spoken during that call. I submit that the Judges were wrong in rejecting Mr. Carroll's account of the telephone calls.

TOWNSON'S EVIDENCE

After being sworn, the accused, Liam Townson, told of his interrogation in Dundalk Garda Station from Saturday night until he was handcuffed on Monday. First two men to interrogate him were Sergeant Corrigan and Detective Hynes. They told him they were investigating the disappearance and murder of Captain Nairac. Hynes told him that he was wanted in the North for three murders, and that he "could be brought across the border for this". Townson told the Court of having seen Peter Cleary's body after he had been shot by the SAS and was afraid the same would happen him. He was very fightened. Next he was asked to account for his movements on the night of 14/15th May and he told of drinking in two Dundalk pubs and going to a flat and being left home by Jim

McArdle. He went to bed and remained in it for the rest of the night. The two gardai kept telling him that he was involved in the murder, and that five statements made in the North indicated he was involved. He denied any part in the Nairac affair.

After what appeared some hours questioning, he was told to stand up against the wall and the two gardai stood on either side and pressed down on his shoulders. Hynes was on his right and Corrigan on his left. It went on for what appeared to be hours and "they kept saying I killed Captain Nairac and to tell the truth".

He was not struck and the only violence was the pressure down on his shoulders and shouting. He was given a drink of water when he asked for it, but was so tired that he could not remember the interview ending nor could he remember two other gardai taking over. He was taken to a cell and lay on the bed but could not sleep because they kept rattling the iron bolt on the door. This noise continued as long as he was in the cell. He had lost all idea of time but it was daylight when the next interrogation took place in the same room. The same questions were asked by two gardai whom he did not know. They did not abuse him - no violence of any sort during this interview. The only men who used violence were Hynes and Corrigan, Dunne and Godkin, Canavan and in a different way Courtney. Detective Dunne had called him "A callous brutal murdering bastard" and he replied that he was not callous, brutal or murdering. He was definitely not a bastard and resented Dunne's insulting remark about his mother. He also told the Court that Dunne had banged the table with a clenched right hand. The noise was terrible. On Sunday night he had not slept and had no idea of the time the interrogation ended for the night. He had tried to sleep but was unable to do so. There were people talking outside the cell door like; "Look at that. Look at him. How can be he there. He must have no conscience". He had not slept when taken out for further interrogation on Monday morning. He felt awful and his recollection of the interview with Courtney and Canavan was told as follows.

315 - How were you feeling?
I felt awful.

316 - In what way did you feel awful?
Just - I was completely tired and I didn't know what they were doing to me or trying to do to me. I didn't know what was happending at all.

317 - Now, you told us that you could only remember the Canavan/ Courtney interview as one of a series of interviews and you cannot put any time on it except some time on Monday?
Monday evening.

318 - Would you tell their Lordships what you do recall about this interview?
They came into the room. I didn't know who the two were before that. I think it was Dunne and Godkin. I am not sure. And Courtney sat over on a chair beside the window and Canavan sat almost in front of me and the right hand side of me.

319 - Well, were you sitting down or standing up?
I think I was sitting down on a chair facing Detective Canavan.

320 - And what occurred?

I was sitting on the chair and they were asking was I going to tell the truth. I told them that I had told the truth and Inspector Courtney came rushing towards me and Inspector - or Detective Canavan put his hand out to stop him and said something like "Don't lose your head, keep your cool - don't lose your head" with him.

321 - Did that have any effect on you?
I was scared. I thought he was going to hit me - thump me or something when he came rushing at me. I thought he was going to let me have it.

322 - And did he take Detective Sergeant Canavan's advice and calm down?
Yes, he sat down again on the chair.

323 - Did Detective Sergeant Canavan do anything to you during that interview?
He did. He kicked me on the leg a while after that.

324 - How did that come about? -
He just kept asking me to tell the truth.

325 - Well, were you sitting down at this stage? -
Yes. Tell the truth. Tell the truth.

326 - Who was saying that? -
Canavan.

327 - Yes? -
And I told him I had told the truth and he hit me the kick on the side of the leg.

328 - Was it a very hard kick? -
It was fairly hard and I told him - I looked at him and said "you are after kicking me". He pulled up the leg of my trousers and he said "look, no mark".

329 - And did you look? -
He looked. I didn't look.

330 - And did the interview continue after that? -
It went on for a while after that and the next thing I remember was putting handcuffs on me.

331 - Sorry, I didn't catch that? -

332- The next thing you remember? -
They were putting handcuffs on me. Yes, I think it was Detective Liam Tuohy came out of the room -

333 - Well, before we come to that Detective Sergeant Canavan and Detective Inspector Courtney had said that during that interview and at an early stage of that interview you told them that you were indeed involved in the Nairac killing and gave them a description of how it had come about? -
No, sir.

334 - Judge: What did you say? -
Mr. McEntee: "No sir".
Witness: No, my Lords.

335 - Judge: You didn't give them any -

336 - Mr. McEntee: Well, how did that interview - do you recall the form that the interview took, apart from - you have told us Detective Inspector Canavan repeatedly saying you did it, you did it, you did it. Do you remember if they had any documents with them?
No. Just there was a bit of paper on the table.

337 - Was anyone writing on that? -
I don't think so, my Lord.

338 - Well, did Detective Sergeant Courtney or Detective Sergeant - sorry, Inspector Courtney and Sergeant Canavan appear to know or did they say anything that indicated to you that they knew how Captain Nairac had been killed? -
I am not sure whether it was them or not but I was told from the time I went into the station till I came out that I had killed Captain Nairac.

339 - Were you told the manner in which it was alleged you had killed Captain Nairac? -
That he was taken from the Cabin

340 - From the Cabin Bar? -
Yes.

342 - Yes? -
And sent out to Ravensdale and into a field and that he was supposed to have asked for a priest.

342 - Who was 'he'? -
This Captain - Captain Nairac was supposed to have asked for a priest, and, that I shot him and left him there and went away home to Fagan's.

343 - Can you recall at all on what day, - whether it was during the Saturday, Sunday, or Monday, that you were given by your interrogators that version of what was alleged? -
I think it was told early on. I can't be sure.

A VERBAL STATEMENT

The only evidence against Townson, which was accepted by the Court, was an unsigned verbal statement. Two gardai, Insp. Courtney and Sergt. Canavan, claimed that the accused made it to them at 3.45 p.m. on Monday 30th May '77. The accused denied on oath that he had made this alleged admission of guilt, and further claimed that he had, at all times, professed his innocence. Defence Counsel suggested that the alleged statement contained nothing that was not already written in statements attributed to men charged with the murder of Captain Nairac in Northern Ireland. The clear implication being that the two gardai officers had conspired to present false evidence to the Court, and that Townson had not in fact spoken the words attribted to him. Defence Counsel was not in possession of the alleged Northern Statements, but he was sure of their contents. The gardai and prosecution did have copies of these statements but did not place them before the Court, or at the disposal of the defence to use in the case.

The trial Judges in their comments about the failure of interrogating gardai to observe Judge's Rules said "THIS IS WRONG AND VERY MUCH TO BE REGRETTED". The failure of the Prosecution to produce, in Court the copies of the Northern Statements so that Defence Counsel could properly develop his argument that the verbal statement, attributed to Townson, had in fact been "made up" by Courtney and Canavan using material from the Northern statements, was equally wrong and unjust. All documents used by the State in the preparation of a case should be available to the person charged to use in his or her defence. This would entail changes to the laws, retained since the time of Colonial Rule,

which so dominate our legal system. The case of The State v. Liam Townson demonstrates the need for such reform.

The alleged verbal statement was not written down at the time it was allegedly made but some hour and a half later. In a question and answer session on the fifth day of the trial Canavan gave his version of the story. Some replies were later ruled inadmissable and are omitted.

136 - "Townson said 'I know the five that are charged with it but I had nothing to do with it'. I asked him if the account of his movements which he had given us the previous day was the truth. He said it was. I told him I had reason to believe otherwise".

137 - "After a pause he said 'How long will I get for this'. He appeared to address me when he said that, and I told him I could not answer that question because it was a matter for the Courts. He then said 'I will tell you the truth'. I cautioned him as follows 'You are not obliged to say anything unless you wish to do so, but anything you do say will be taken down in writing and may be used in evidence'. Townson indicated that he understood the caution. Townson then said (144) 'I shot the British Captain: he was a great soldier: he never told us anything: I was in Leonard's pub in Dundalk when Danny Kelly came in to me and said there was a job to be done.' 'Will you get a bit of hardware'. He said he went out the road in Smith's car and went to an old ruined house and got his gun, a point 32 revolver, there. They went out to the bridge at Ravensdale Park. He said that they were all there: he said 'I fired a shot on the way out, to test the gun'. He said when he got there they were all there 'But I do not think I saw young McKay', he said 'At least I didn't see young McKay'. He said he had a lot of drink taken. He asked the Captain who he was and he said he was a 'Sticky'. The Sergeant continued with his account with a direct quote from Townson: 'I asked the Captain who he knew and he said Seamus Murphy'. Townson then said 'I told him that I did not believe him, that he was a British soldier and that I had to kill him'. He said that he hit him with his fist on the head and also with the butt of the gun. The Captain said to him 'You are going to kill me. Can I have a priest'. He was in a bad state. Townson continued 'I aimed at his head and only put one in him. The gun misfired a few times. We left the body there and I went home across the fields'. (extracts from 144/150).

151 - Canavan - I then asked him where the body was and he said 'I don't know: that's the truth'. I asked him where were the clothes he was wearing on that night and he said '**Out in Tony McGeough's field in a pile of stones**'. He drew a sketch where the gun and clothes were hidden under this pile of stones.

161 - Did he make a request to you then?
He made a request if he could have the same priest that was with him earlier, as he wanted to make a proper Confession to the priest.

162 - Did he say anything else?
He said his conscience was killing him since that happened and that he had **not slept a wink since it happened**. He said 'I want ye to tell all the lads that I am sorry for telling them lies, especially Garda Michael King and **Larry Crowe**; I know them well. I would like to make a statement to them and tell them everything.'

166 - The accused said to me 'I feel much better now that I have told someone about the whole thing: my conscience was killing me. I honestly don't know where the body is. I am not the O.C.'

168 - I should never have done it. I was walked into it like a lamb'.

From this point much that was told was later ruled as inadmissible because the Judges ruled that the accused's constitutional rights had been violated between 4 pm and 7.15 pm on the evening of 30th May and that any statement or other evidence procured during those hours was not admissible as evidence in the trial. Had they accepted that Mr. Carroll had phoned at 2.40 p.m., and that he had been denied reasonable access to his client, the constitutional rights of Liam Townson would have been violated at 2.40 p.m. and all subsequent evidence would have been excluded. The importance of that phone call and the ready dismissal of the Solicitor's evidence paved the way for what I consider to have been an unjust verdict.

The account of the alleged verbal admission made by the Accused to Sgt. Canavan is the main subject matter in the "Canavan File". It may be divided into two categories : subject matter which was included in the Northern Ireland statements and subject matter not contained in those statements. Both the "Canavan File" and Inspector Courtney agreed on all points contained in the Northern statements and this point was stressed by Mr. McEntee. One reply by Inspector Courtney sums up the essence of Mr. McEntee's case. The question was on the following lines; Was all the information contained in Townson's verbal admission already contained in the Northern statements, with the exception of the reference to the clothes and gun? Reply 279 summed up the Inspector's case: "I just want to think back now. Yes, more or less". The one issue not covered in the Northern statements, clothes and gun, was also the one serious issue on which Insp. Courtney and Det. Sgt. Canavan gave conflicting evidence. Both men said that Sgt. Canavan asked Townson a question relating to the clothes he was wearing on the night of 14th May 1977. "I asked where the clothes he was wearing that night were?". Inspector Courtney told the Court that Townson's reply was "He said they were in the stones in McCoy's field, Mr. Begley's of Culfore", the Insp. repeated "Begley's of Culfore, my Lord". Sgt. Canavan gave a different version of Townson's alleged reply: "Out in Tony McGeough's field in a pile of stones" and he added "He drew a sketch indicating where the gun and clothes were hidden under this pile of stones."

The agreement in the two accounts when the subject matter came from the Northern statements and the disagreement in their versions of the one subject not included in the Statements helps confirm Mr. McEntee's claim that tha alleged verbal statement was concocted by the two gardai using the Northern statements as their source.

A careful examination of the Canavan File brings to light disparities with other evidence given to the Court.

1. The first interrogation team of Corrigan and Hynes asked the accused to account for his movements on the night of 14th May. He told them he had a few drinks in Leonard's Pub in Church Street, Dundalk, before going to the **Cabin Inn** in Bridge Street where he stayed until closing time, or around mid-night. This account was checked out by many gardai and Detective Hynes told he had found it to be "100% correct".

The Canavan File told that Townson, and I quote (144/34) "---- I was in **Leonard's pub** in Dundalk when Danny Kelly came in ---- "The alleged visit of Kelly to Dundalk was twelve midnight or shortly afterwards according to a statement signed by him in Belfast. On this point the 'Canavan File' was wrong and the credibility of the alleged confession is weakened.

2. This point deals with an implied claim that all five who had been charged, in connection with the abduction of Captain Nairac, before a Northern Court, were in the field at Ravensdale Park when Townson was driven there. (136) "I know the five that are charged with it, but I had nothing to do with it. When I got there they were all there, but I do not think I saw young McKay". This claim was not correct and one of the other four charged in the North was at that time in the Fairway's Hotel, some eight miles away. This fact was established in the Northern trial.
3. The Canavan File quoted Townson (162) "---- I am sorry for telling them lies especially Garda Mick King and Larry Crowe. I know them well ----". At no time from his arrest until he made this alleged admission did Townson meet or speak to Garda Crowe. The transcripts of the trial support this fact. The only time the accused spoke to Crowe was on the roadside in Proleek **after** he had made the alleged confession. What was probably more important to me, in my efforts to establish a conspiracy to pervert the course of justice, was Garda Crowe's admission that he had worked with Inspector Courtney on another case - a murder case in Dundalk. The Canavan File erred when claiming that Townson had told lies to Crowe and its credibility was further damaged by this bloomer.
4. -- (162) -- "He said his conscience was killing him since that happened and that he had not slept a wink since ----". Garda after Garda had testified to the Court that the accused was calm, relaxed, and was not tired or in any way distressed even after seven hours continuous interrogation in the dead of night: that he had slept on both nights after interrogation. The learned Judges accepted the words of these gardai but passed no comment on this apparent contradiction in the Canavan File which they, the Judges, accepted as being the truth also.

The trial Judges failed to comment on these errors in the Canavan File and this might have been an oversight. It speaks poorly for their sense of duty and their suitability to act without a jury. The defence, through Mr. McEntee, did refer to the pick up point being Leonards but merely described it as inaccurate; he made no reference to Guard Crowe. In making these comments I fully appreciate the task Mr. McEntee and his team faced, and the failure of State witnesses to answer questions in a straight forward madder, added to that task. In my case I had the advantage of having the Northern Statements and being able to get some details of evidence given in the Belfast trial. It took three readings of the transcript of the Townson trial before I began to follow the **devious** manner in which the prosecution case was prepared in advance of Townson's arrest. There was, to me, a clear conspiracy to convict Liam Townson, and police on both sides of the Border were involved in the conspiracy.

There was a progression in the various statements signed in the Castlereagh Interrogation Centre which clearly indicated a desire to set

up Liam Townson for the murder of Captain Nairac. The first statement made by Thomas Quinn contained no reference to Liam Townson. Why? The reason, I strongly suggest, was that Townson was not there in Ravensdale Park. The second statement attributed to Quinn, and signed by him, not only indicated that Townson was at Ravensdale Park, but that Townson had shot Captain Nairac. The first statement was made on Monday 23rd May and the second one was made on Wednesday 25th May and the question posed by the additional information about events in Ravensdale Park has to be: What additional information was available to Detective Inspector Thompson Mitchell of the RUC? He was the only policeman present when the second alleged statement was signed and he had been putting pressure on the accused, Quinn, to make a second statement. I do not accept that Quinn freely made or signed this second document.

The timing of the second Quinn statement is important in examining its credibility. The first statement terminated at 10.50 p.m. on Monday 23rd and on Tuesday Inspector Mitchell interviewed the prisoner alone in his cell for one hour. The prisoner refused to make any additional statement. On Wednesday the same policeman, again unaccompanied, interviewed Quinn from 3.47 p.m. until 4.50 p.m. and at that point Inspector Mitchell claimed that Quinn agreed to make a second statement. The Inspector did not get another policeman to witness the making of this alleged statement and this omission immediately begs the question, Why not?.

Could it be that the Inspector had a prepared statement with him when he entered the detention cell? Could it be that he was the man responsible for the foul language: language which was similar to that attributed to Anthony McCooey?

Whatever the answer to these two questions the second statement signed by Quinn was the only one of the nine Northern statements containing foul language.

When Quinn's second statement is examined in conjunction with the statements made by the other four, who had been charged in Northern Ireland, the verdict in the trial The State v. Liam Townson, becomes untenable. The statements, seven in all, were made as follows ---

Gerald Murphy - 8.15 p.m. Tuesday 24th May; 4.50 p.m. Wednesday 25th May and 1.05 a.m. on Thursday 26th May.

Danny Kelly - 4.50 p.m. on Wednesday 25th May and 6.25 p.m. on the same day.

Owen Nixon - 2.55 p.m. Thursday 26th May.

Michael McKay - 4.40 p.m. Thursday 26th May.

The second statement signed by Thomas Quinn was made on Wednesday 25th May starting about 4.50 p.m.

The times at which these statements were made appear to be at variance with evidence given by Inspector Courtney during the fourth day of the trial of Liam Townson. Most of the Inspector's evidence in relation to the Northern Statements appeared to be deliberately ambigious. In reply to questions from Mr. McEntee, Inspector Courtney told the Judges that he was in Dundalk from 18th May, but had to return to the Central Criminal Court in Dublin, and was absent for most of the week. i.e. the week ending 28th May. He arrived back in the Dundalk Garda Station at about 3 a.m. on Saturday morning of 28th May. Having elicited this information Mr. McEntee asked --

159 - At what stage did copies of the five statements taken in Northern Ireland arrive in Dundalk? -- They had been there since the previous week.
161 - I beg your pardon. Would you say that again? -- They had been there a few days. They had been there since the previous week.
162 - Which week is that now? -- That's the week I was in Dublin. That week - sorry that's - well, the same week, we'll say.
163 - Mr. McEntee. Well now, be careful about this. When did you say you first got a view of the five statements or copies of the five statements that had been made in Northern Ireland? -- They were there earlier that week.
164 - Were they there before you left for Court in Dublin? -- Oh yes they were. I think so. I'm not clear now about it.

Not once during this evidence did Inspector Courtney give a straight answer to the question asked. He showed nothing but contempt for the Court and had, in my opinion, deliberately tried to deceive. Such conduct, coming as it did from the chief state witness, reduced the proceedings to a mockery of justice. It will be seen during an examination of the statements, which emanated from Northern Ireland's Castlereagh Interrogation Centre, that no statement implicating Liam Townson in the Nairac Affair was made before the evening of Wednesday 25th May. Three of the statements were made on Thursday 26th May and the last one was not completed until 5.45 p.m. on that day. This information makes a nonsence of Inspector Courtney's evidence, in the trial in Dublin, that the copies of the Northern Statements had arrived before he departed early in the week to attend the Central Criminal Court. The statements made in the North took from slightly over an hour to nearly three hours to complete and contrast with the alleged ten minutes which it took Liam Townson to make his alleged confession of guilt to Inspector Courtney.

The first statement, made by Gerald Murphy told much the same story as Quinn did about their drinking and scouting the roads. Murphy gave better details about their arrival at Ravensale Park. He told of stopping on the hump-backed bridge and that "Five men got out of the Cortina and went into the field. Bell came over to me as I was sitting in the Peugeot. He gave me the keys of his car and told me to go back to the Three Steps Inn and drive his car to the Border Inn. Me and Thomas Quinn then reversed out from the lane and drove back ----"

These details certainly ring true. Quinn would not have been able to drive up the road to turn because the Cortina blocked their way. This explains the need to reverse back before turning. That Bell would want his car removed immediately from the Three Steps Inn in Northern Ireland and taken south of the Border was understandable. Questions would be asked if the car was still at the Three Steps after other patrons had left, or if it was still there when the British army and RUC went looking for Nairac. There was no mention of Liam Townson in any of the three statements signed by Gerald Murphy.

The second Murphy statement gave a more detailed account of events at the Three Steps but the main alterations were to his account of what took place after his arrival at the hump-backed bridge at Ravensale Park. The story was changed "By the time we stopped, everybody had got out of the Cortina and were in the field. Thomas Quinn and me went into the field

as well and talked to one of the men and asked who or what Nairac was. He said they weren't sure yet.

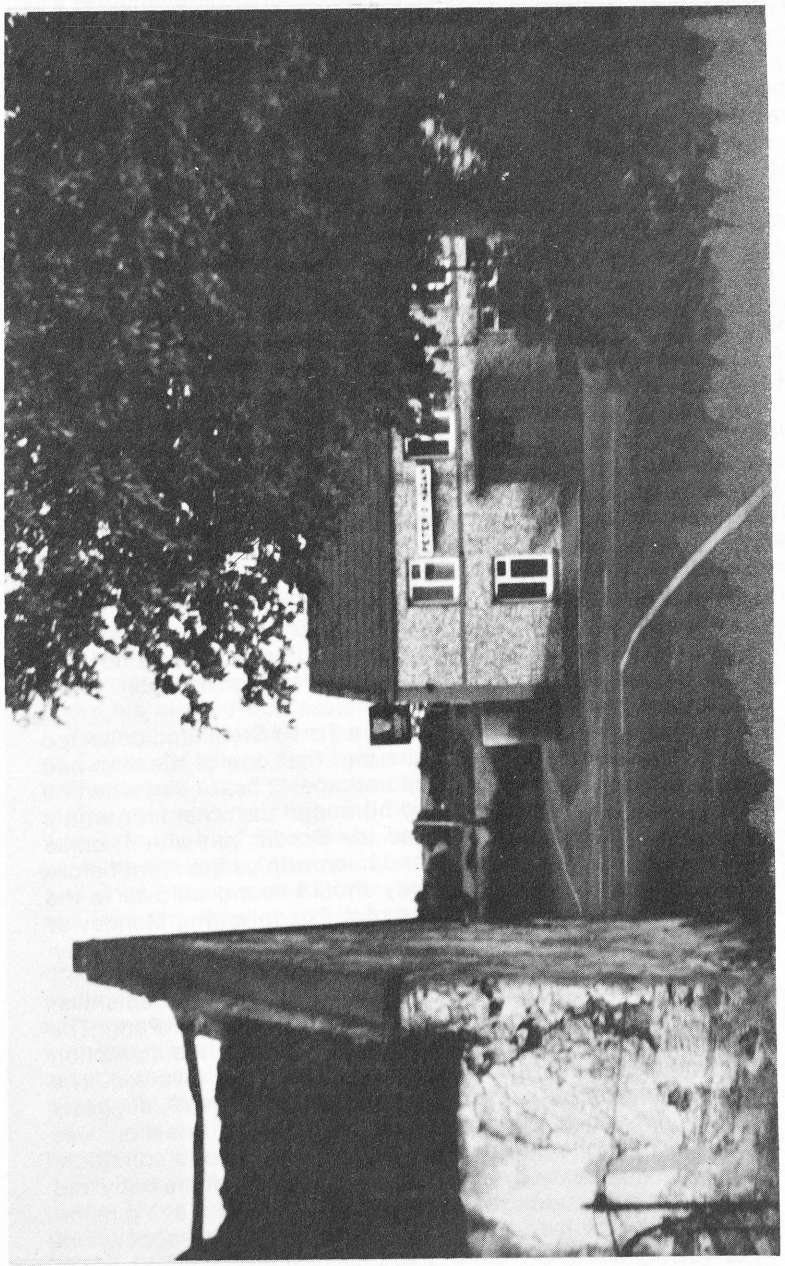
At this time Nairac was in the corner of the field next the lane. He was sort of crouched in against the wall and was being held by one or two men. ----". One of the men then asked him to collect his car at the Three Steps and he did so and came back to Ravensdale with Quinn. He then described their return to Ravensdale Park. "We parked the car further up the lane this time and went back into the field. Nairac was further over the field towards the far side from the gate. Another man had arrived in the field by this time. ------, me and one of the others walked over to the gate and stood there. Then we heard a shot and the other boys came over the field and said he was dead. ----"

The failure of Murphy to name even one of the men with Nairac was surprising as was his failure to mention the Cortina car. He did not tell how they got past it on the narrow road. There was nothing in his description of happenings in the field which would help to **distinguish** his account from the second Quinn statement. Everything in it could have been written by a man who had read Quinn's statements and who had access to gardai reports of blood stains fairly low down on the wall of the bridge beside the gate. This second statement was made shortly after Quinn had agreed to make his second statement to Inspector Mitchell and was possibly copied from that statement.

The third statement, signed by Murphy, was made about 1 a.m. on Thursday, and the most important additions or alterations were "When we were questioning him in the field, a car drove along the dirt track in the forest and could not get past our car. I went to the car and told the driver to switch off his lights and we will let him go now in a minute and that he saw nothing". This incident was supposed to have happened before he went back to the Three Steps to collect Bell's car. There was no mention of how this car got past the Cortina.

The account then told that they went to the Three Steps and collected the car for Bell. On their return they were told that one of the men had been hit by a ricochet when Nairac tried to escape. "I heard that when he tried to escape, one of the boys fired and hit one of the other men with a ricochet. After Mass on Sunday I went to the Border Inn with Thomas Quinn and we met four of the men who had been with us the night before in the kidnapping. ------. We said the body should be moved over to the North that night to keep the Free State out of it. The following Monday or Tuesday I met one of the men and he told me that the body had been taken care of".

There was no reference to Liam Townson in this third statement or anything which might suggest his presence in Ravensdale Park. The meeting after Mass on Sunday, of the six men involved in the abduction the previous night, suggests that Liam Townson was not involved. The reference to the narrow road being "a dirt track in the forest", suggests that Murphy did not make the statement. The road in question was through farmland, and while narrow it was tarred and in good condition. The reference to moving the body to the North suggests that the body had been left lying in the field overnight and that it was still there at 1 p.m. on Sunday. The gardai found no evidence of trampled grass at the spot where the body allegedly lay and grave doubt was thus cast on the credibility of the second and third statements signed by Murphy.



Hughes' Pub, showing the crossroads and old walls. Gardai claimed that a .32 revolver had been removed from the walls but produced no forensic or ballistic evidence, in either Dublin or Belfast Courts to support this claim.

Danny Kelly's first statement told of events at the Three Steps and that he had been in the front seat of the Cortina from the pub to Ravensdale and that Nairac had been questioned on the journey. -- "I don't remember the man giving any straight answers. ------. They took him -- into the field. At this stage I noticed Gerry Murphy and a young boy called Quinn pull up in a car. 'Bell' then told and 'Smith' to go to a pub in Dundalk and get Liam Townson. I don't know the name of the pub but it is on the bridge as you turn into Dundalk. It was 12 or 12.30 a.m. Once the car stopped I got out -- and saw Townson standing at the door of the pub. He was on his own. ------. Townson then came and got into the back seat of the car. We drove back to the spot where we had dropped 'Bell', 'Allen', and the man off." The statement went on to tell that Quinn and Murphy were in the field with the other two and Nairac close to the wall beside the bridge. He told of the ricochet bullet hitting Allen, and of the group moving up to the middle of the field and told 'Smith' to take the Cortina off the road. Smith went away in the car. There was no mention of Nairac being shot.

In a second statement made within an hour of finishing the first one, Kelly gave a completely different version of events following the picking up of Townson. -- "When we lifted Townson in Dundalk we headed back towards the Border. I'm not sure whether we turned off the main road to the left or to the right but we stopped outside another pub on the roadside. Townson told us to do this. He got out of the car and was away about ten minutes when Mickey McKay and another fella Owen Nixon drove up in McKay's Volkswagen car. They didn't stop but they slowed up beside us and I could see them by the light outside the pub. They went past and turned and came back again. They didn't stop this time either but they slowed down a bit. About ten minutes after they passed, Townson came back and got into the car." He then told that Townson had fired a shot because he thought the gun was jamming. "I looked round and saw a short gun in his hand". His account of events in the field was somewhat similar to that of Quinn up to the point where the group moved across the field. -- "About half way up the field the man seemed to collapse and was lying on the ground. I was about 4 or 5 yards away and I heard him ask for a priest. He asked at least twice. Townson said he would get a priest, and came and whispered to 'Allen'. Allen went over to the man still lying in the field and said, 'I'm a priest. Tell me who you are'. -- They took him further into the field 'Bell' on one side and Townson on the other. He was on his feet. Townson was clicking the gun and 'Bell' was holding the man. 'Bell' let the man go and lifted a stick about four feet long and as thick as your arm and hit the man over the head with it. He hit him a second time and the man went down. Townson was standing in front of him. Everyone except Townson started walking to the gate. I heard one shot. I turned round and the man was lying in the field -----".

The alterations in the second statement defy rational explaination and the claim that Townson was standing alone at the door of the Pub when Kelly got out of the car reads false. The return journey, as told in the second version, told that Kelly did not know whether the car had turned to the left or right from the main road to reach Hughes' Pub. This does not seem to be the truth and puts a serious doubt about the alleged drive to Dundalk. The statement made no mention of the route used for the journey from Hughes to Ravensdale Park. According to the second

statement, Liam Townson was not in the Cortina when the car driven by McKay passed on its way to the Fairways Hotel. McKay and his passenger, Nixon, were arrested after Kelly, Quinn and Murphy had completed their statements. The statements signed by these last two men to be arrested complicated matters even more. McKay told that he had been in the Three Steps and had been driven home, by Marie Murphy, to get his father's car. He returned to The Three Steps and got petrol before departing with Nixon for a dance in the Fairways Hotel, Dundalk.

He described the journey, "I drove along the Drumintee/Jonesboro road and turned right at Drumintee Chapel on to the Carrick Broad Road towards Hughes' pub. There was a car coming towards me from Dundalk and it turned right at Hughes' pub. I followed this car and discovered it was the Cortina driven by Smith. I passed this car and put on my hazard warning lights and stopped. The Cortina pulled alongside me. Smith was driving and there was a grey haired fellow in the front passenger seat. There was someone in the back but I couldn't see who it was. ----. I drove off and went to a dance in Dundalk."

Nixon gave a different account of the journey and events at Hughes'. "---- We headed for Dundalk. The road we took was by the Gap of the North by Boyle's shop and out at Hughes' Pub. We stopped at the crossroads at Hughes' pub, we overtook a bronze Cortina which was going slowly. There must have been about five men in this car. This Cortina then passed us and pulled up along side us. The Cortina was driven by Smith, Liam Townson was sitting in the front passenger seat. I think Bell was in the back because I think I heard his voice. ------. McKay then drove straight to the Fairways Hotel outside Dundalk."

These two accounts differ on such matters as the number of men in the Cortina. One said there were three and the other five; Nixon said that Townson was in the front seat and McKay did not know the man in that seat. Kelly had told that Townson was away when the two passed on their way to the dance and that he, Kelly, had been in the front seat at all times. The police did suggest to both Nixon and McKay that Townson was in the Cortina and this probably explains Nixon's reference to Townson.

Sean Murphy, one of the members of the band which was playing in the Three Steps on Saturday 14th May 1977, told of events in the bar that night. "At about 11.15 p.m. when he (Nairac) was coming out of the toilet he asked me if a Belfast man could sing a song. I told him to write it down on a piece of paper. He said, 'No', that I was just to call it out. He gave his name as Danny McElean. He went back and stood at the bar and a short time later Charlie called out his name, saying that there was a special request for a men the whole way from Belfast called Danny McElean. This man spoke with a Belfast accent and came up and sang two Republican songs. One was the 'Broad Black Brimmer' and I'm not sure what the other song was. This man was able to tell us the key he wanted to sing in and he was quite a good singer. When he finished singing he went back to the bar and joined the same people. We finished playing about 11.35 p.m. and started to pack up. This man was still at the bar because when I was taking off my guitar I hit him on the head with it and I apologised to him. ----"

This statement indicated that Nairac did not leave the bar until after 11.35, and that it was probably 11.40/11.45 before he was bundled into the Cortina car and driven across the Border. The journey to Ravensdale Park

and the entry into the field there would have taken some 10/15 minutes. Some time later Smith and Kelly left the field to go and collect a man at another venue. Was that venue Dundalk or Hughes' Pub? Had the venue been Dundalk as indicated in Kelly's statements the journey would have taken about twenty minutes. Inspector Courtney told the Judges in the Dublin Trial that the journey from the field to Dundalk took him twenty minutes. It would have taken some time to locate the man who was wanted out at Ravensdale Park and the journey out to Hughes Pub would have taken some ten minutes. Thus, without taking into consideration the two stops at the Garda checkpoint at the Lidsoo Arms, it would have been 12.30 a.m. before the Cortina arrived at Hughes'. Michael McKay and Nixon passed Hughes' on their way to Dundalk at midnight or very shortly afterwards so it would have been impossible for the Cortina to have been in Dundalk and back out at midnight. The probability was that the Cortina went direct from Ravensdale Park to Hughes' and picked up a man and gun there, or, in a nearby house. This would explain the failure of the Gardai to produce evidence of the Cortina passing through the Lisdoo checkpoint or any evidence from the barman in the Cabin Inn Pub in Dundalk which would indicate that he had admitted Kelly to his premises after closing time.

In an effort to get some explanation for the very obvious contradictions in the various Northern statements I visited most of the homes of the men charged. In all cases the parents claimed that their sons had been abused by named RUC men, and that the statements had been challenged and refuted by the defendants during the Belfast trial. Michael McKay and Owen Nixon who were not included in the murder charge have out of prison for some time and told me of the events of Saturday 14th May 1977. They assured me that they had reached the public house known as Hughes' or Annie's before twelve o'clock and that they were stopped at a gardai checkpoint beside the Lisdoo Arms as they entered Dundalk. The delay at the checkpoint was in excess of five minutes even though McKay's car was not searched. The presence of this checkpoint became, for me, the most crucial factor in determinining the credibility and veracity of the "Canavan File" and the statements attributed to Danny Kelly.

The failure of Kelly to mention the checkpoint puts a question mark against his claim to have gone into Dundalk on that night. His story that Townson was standing alone at the door of the public house, as you turn into Dundalk at the bridge, failed to tell whether the door was open or closed. He did not tell which door Townson was standing at. Had he gone to Dundalk, as claimed, the two stops at the garda checkpoint would have added about fifteen minutes to the journey from Ravensdale Park to Hughes' pub via Dundalk. These details make a mockery of his story that he was at Hughes' ten minutes before McKay and Nixon passed on their way to the dance in the Fairways Hotel. The story about going into Dundalk becomes less credible with each examination and the probable explanation was that the Cortina did not go into Dundalk but went to Hughes' to collect a senior member of the Provisionals there, or in a nearby house. This would give credence to Kelly's claim that he was at Hughes' ten minutes before McKay and Nixon went past the Pub. Significantly the account given by Detective Inspector Courtney and Sergeant Canavan as per the "Canavan File" repeats these errors and

omissions. The claim that Townson had fired a shot out of the car was also contained in both the "File" and Kelly's second statement, and is best examined in the light of evidence given in Belfast by Detective Garda Michael Niland, Ballistics Section, Garda Technical Bureau, Dublin.

BALLISTIC AND FORENSIC EVIDENCE (BELFAST TRIAL)

Niland told the Belfast Court of his finding (18th May 1977) blood on the wall of the bridge in the field behind Ravensdale forest at four positions fairly close together and some 37 to 41 inches from the ground. He told of trampled grass and bloodstains on the soil in the same location, and of finding hair similar to Nairac's on the wall in the grass. He gave details of finding lead from a .32 bullet on the wall of the bridge, and of Sergeant Corrigan giving him a round of 9 mm ammunition in good condition and a round of .32 ammunition with a number of intermingled firing marks on its primer. Up to May 28th no blood was found at any other location in the field at Ravensdale. On that day a garda found what he thought were blood-stains on grass and soil at another location, and the following day the same garda found a 9 mm bullet at the same spot. Detective Niland again visited the field and having described this new area as Scene 2 said -- "I saw in two areas on the ground and grass what appeared to be blood. I removed a sample from both these areas, one of which was composed of soil and a small stone, and the other a small piece of stick and grass". No measurements were given which might help to determine the size of the blood stains or of the quality of blood present. There was no mention of the grass being trampled and no hair was found at this Scene 2. The absence of these signs was surprising, as it was in this area that Nairac was supposed to have been shot. The details of the amount of blood at the scene of Peter Cleary's murder were described by Constable Poots at an inquest in Armagh and are worth repeating for comparrison purposes. Poots told of finding a pool of blood 18 inches by 24 inches and of a smear of blood on the grass and soil for 75 feet. The absence of a pool of congealed blood, of blood-stained hairs, and any trampling of grass casts grave doubts about the story that Niarac had been shot in the Ravensdale field. Surely if he had been shot some congealed blood would have been found? Some hair with skin and blood attached? Some small signs of drainage from the head wound containing matter from the general brain area?

The credibility of the story told in the Dublin Court took a further knock in Belfast where John Donovan and Dr. McClean of the Forensic departments in Dublin and Belfast gave their evidence. John Donovan indicated his failure to find Liam Townson's fingerprints on either Nairac's gun or the .32 and also of a similar failure in relation to the ammunition and plastic bags in which these items were found. No trace of lead or powder indicating that he had been in contact with firearms were found on his clothes. Dr. McClean told of examining the Cortina said to have been used in the kidnapping, and of having found hairs similar to Nairac's on the floor in the back. He did not find Liam Townson's fingerprints on the vehicle. There was no forensic evidence of any sort found, North or South, linking Townson with the Nairac affair.

On Monday 30th May 1977 the gardai came into possession of Nairac's 9 mm pistol and also the gun they claimed had been used to shoot Nairac, a .32 revolver. The pistol was in good working order but the revolver had a faulty firing mechanism which resulted in it failing at times to strike the primer properly. The gardai also found a number of bullets in a plastic bag, and included in the find were 22 rounds of .32 calibre. In addition to live rounds there were two empty shells which had been fired from the .32 revolver. The fact that only two empty shells were found was surprising because three shots had allegedly been fired from the .32. The first was allegedly fired out of the car, the second at the hump-backed bridge and the third across the field in Ravensdale. Unlike a pistol the .32 revolver does not eject the spent shell automatically after firing. The weapon must be broken and the spent shells emptied out - a deliberate act. Both the "Canavan File" and the second statement signed by Kelly mentioned a shot being fired from the .32 on the journey from Hughes' Pub to Ravensdale, but made no reference to a spent cartridge being removed from the gun. There was evidence produced in Court which proved that a bullet from the .32 had been fired at the hump-backed bridge. In the second statement signed by Quinn he told of Bell telling him on Sunday "That he had accidentally shot Allen in the side the previous night". This clearly indicated, if true, that it was Bell and not Townson who had had the .32 revolver. There remains grave doubt about the third shot fired across the field and thus further shadows fall on the "Canavan File". There were question marks about all aspects of the gardai evidence and it is doubtful whether in ordinary circumstances such a case would have been left to a jury to decide. There can be no doubt that what verdict would have been returned if a judge decided to let such a case proceed.

The Special Criminal Court is not an ordinary Court, and was set up in 1971 by the Lynch Fianna Fail Government in order to get convictions which an Irish jury would not countenance. The judges of the Special Criminal Court were and are selected by the Government of the day to this end. In the Townson trial, one of the three judges, Judge O'Connor, paid little attention to the proceedings, and appeared to sleep on a regular basis. The defendant's father, a man of honour and intregrity, told me of this judge's behaviour, as did others present at the trial. Judge O'Connor later died in his sleep to add credence to these claims. The apparent bias of all three Judges was obvious right through the "trial" and in the VERDICT which was given at 3.45 p.m. on Tuesday 8th November 1977.

THE VERDICT

PRESIDENT:- On the night of the 14th of May 1977 Captain Robert Nairac left Bessbrook Mill, Bessbrook, County Armagh, at about 9.25 p.m. He was last seen by Captain David Allan Collett, an Operations Officer, and he, Captain Nairac, was then dressed in civilian clothes and was driving a red Dolomite car, Registration No. CIB 4253. Captain Nairac made a radio signal to Captain Collett at 9.58 p.m. That was the last communication received from Captain Nairac. He did not return to Barracks. At about 1 a.m. the following morning a search was initiated. Captain Collett has given evidence of a search by one hundred (100) Constables, supported by one hundred and fifty(150) Military personnel from Armagh, with negative results. No direct evidence was tendered by

the Prosecution as to searches within this jurisdiction, but it is clear, from parts of the evidence, that a search which included the use of dogs and divers, was undertaken in this jurisdiction.

This is a murder charge. Neither Captain Nairac not his body has been found. Mr. Macdonald has submitted that in the absence of a body the Court can be satisfied that, by circumstancial evidence or by admissions, that the death took place and, further, that the death was caused by murder. He relies on the Irish authorities - the Attorney General -V- Edwards, 1935 Irish Reports; the Attorney General -V- Ball '70, Irish Law Times Report; Attorney General -V- Kirwan, 1943, Irish Reports; and The People -V- Thomp, 1954, Irish Reports. We accept the principle enunciated in those cases as substantiating Mr. Macdonald's submissions, and adopt them.

Evidence has been given that Captain Nairac's car was seen at 9 a.m. on the morning of the 15th of May on the forecourt of the "Three Steps Inn" at Drumintee, County Armagh. Around it were scattered bloodstains, a broken car mirror, a bunch of keys and a number of coins. Detective Sergeant McCann examined the ground around the car, gave evidence that what he saw made him form the opinion that a struggle had taken place in the neighbourhood. As a result of information received, Garda Durkin, on the afternoon of the 18th May, 1977, went to a field beside the Flurry River in Ravensdale Park, County Louth, and found bloodstains on a bridge, coins, and over an area the grass had been trampled on. On the same day Supt. Farrelly visited the same scene at Ravensdale and found bloodstains on the grass and on the stones; that the grass had been trampled on and evidence of a struggle having taken place there.

On Saturday, the 28th of May the accused was arrested by Sergeant Tiernan under the Emergency Powers Act, 1970, Section 2, and brought to Dundalk Garda Station. From his arrival at Dundalk Garda Station until 3.15 p.m. on Monday the 30th May the accused was interrogated by Garda officers on several occasions, and made exculpatory statements. At 3.15 on the same day, that is Monday, the 30th, Inspector Courtney commenced an interview with the accused. At 3.20 he was joined by Sergeant Canavan. After some preliminary conversation the accused made what we have already held to be and which, having re-considered, we still hold to be, a voluntary statement. Detective Sergeant Canavan told the accused that he and the Inspector were making inquiries into the death of Captain Nairac and that it was believed that the accused could assist them. The accused said he could not: the accused said that five fellows were charged with this and he knew them, even if he knew nothing about them.

The accused further asked - "How long will I get for this." Sergeant Canavan said "I do not know" and the Inspector said - "I do not know". This question was repeated a number of times. The accused then said "I will tell you the truth" and at this stage he was cautioned by Sergeant Canavan in the terms "You are not obliged to say anything and whatever you say will be taken down in writing and may be given in evidence". Sergeant Canavan asked the accused if he understood the caution and the accused said he did. The accused then said - "I shot the British Captain: he never told us anything. He was a great soldier. I was drinking in Leonard's pub. Danny Kelly came in and told me to get a bit of hardware,

that there was a job to be done.We went out the road in Kevin Smith's car. We went to an old ruined house; I got my gun, a .32 revolver there. We went out to the bridge on the side road in Ravensdale. I fired a shot on the way out to test it. They were all there when I got there. I don't think young McKay was there. I had a lot of drink taken. I asked the Captain who he was. He said he was a "Stickie." I asked him who he knew and he said Seamus Murphy from Dromintee. I told him I did not believe him, that he was a British soldier and I had to kill him. I hit him on the head with my fist and with the butt of my gun also. The Captain said 'If you are going to kill me, can I have a priest'. He was in a bad state. I aimed at his head. I only put one into him. The gun misfired a few times. I left the body there and **we** went home across the fields".

Mr. McEntee questions the time or times at which the statement was made. We appreciate that this is a very important matter. Some conflict as to the actual and precise time when the voluntary part of the statement was made appears from the evidence of the 2 officers involved. Inspector Courtney said such statement was completed by the accused at approximately 3.50 p.m., whereas Detective Sergeant Canavan said that the statement only commence at 3.50 p.m., and that it was completed within 3 or 4 minutes. We are satisfied beyond reasonable doubt, on the evidence, notwithstanding the slight discrepancies indicated, that the making of this voluntary statement was completed before 4 p.m.

Mr. McEntee has urged that Detective Sergeant Canavan should not be accepted as a credible witness by reason of the fact that there was a time alteration in his notes of the interview. Originally the Sergeant records that the interview commenced at 3.50 p.m., which he subsequently altered to 3.20 p.m. Originally the Sergeant had recorded, immediately following the entry about the commencement of the interview, that the inculpatory part of the interview . . . of the statement . . . commenced about 3.50 p.m. to which time the Sergeant still adheres to. The Sergeant gave evidence, which we accept, that immediately he made the second entry of 3.50 p.m. - that is the time when the inculpatory statement was made - he realised that the first entry was an error, and he changed the '3.50' where it appears first in the notes, to '3.20'. We accept this alteration was made out at the same time he was making his notes. We accept his perfectly innocent explanation and are quite satisfied that the Sergeant made no alterations in his notebook for ulterior purposes. We further accept the Sergeant's evidence, that the interview commenced at 3.20 and the inculpatory part was made in or about 3.50 p.m.

It was further alleged, as a matter of credibility of Sergeant Canavan, that the letter on the sketch map, not in evidence on the main issue, but in evidence on the matter of credibility, was forged by Sergeant Canavan. This we reject. In view of the condition of the accused at 7.45 p.m. we do not think that the volunteered statement made by him is of any, save very slight, evidential value. We do not intend to take it into consideration.

We return to the verbal statement made to Inspector Courtney and Sergeant Canavan. The Court has given careful consideration to the possible constructions of it, urged by Mr. McEntee. The Court is satisfied, beyond reasonable doubt, that the only possible and correct interpretation is that the accused shot and killed Captain Nairac. This was murder.

Accordingly it is the duty of the Court - since we have no discretion in sentence - to sentence you to Penal Servitude for life."

EXAMINATION OF VERDICT

The verdict of the Court and the apparent desire to convict the accused was in keeping with the tradition of Special Courts in Ireland. Every word spoken by the accused in his defence was brushed aside as being untrue. The only true word he spoke, according to the judgement, were those attributed to him in the "Canavan File". The accused denied on oath having used these words. The most crucial decision by the Judges was their ruling that Nairac was dead, despite the absence of his corpse, and that his death had occurred in the field at Ravensdale. They accepted the principles enunciated in three earlier cases, and used the judgement in those cases to justify their assertion and judgement that Nairac had been shot in Ravensdale. In my opinion this decision was bad in Law and unjust to the accused. There was a clear clash of evidence in relation to the events which had occurred in the Ravensdale field on the night of Saturday 14th May 1977. Townson claimed he was not in the field, while the gardai said he was, and that Nairac had been shot at a point some distance from the hump-backed bridge. No forensic evidence of any sort was produced to support the gardai assertions. In the absence of such evidence the possibility of Nairac having been killed in the field was greatly reduced. In the three cases used by the Judges, as a precedent for their decision to accept Nairac's death, there was not the same preservation of the scene of the alleged crime as at Ravensdale. The IRA claim to have assassinated Narac contained no reference to his having been shot in the Ravensdale field. All indications pointed to his having been brought to a house, some miles away, and subjected to prolonged interrogation there before he was shot, some twenty four hours after he was abducted. His body in all probability lies buried among the people, whom he had worked against as an SAS officer and MI 6 agent.

The dismissal of the evidence given by solicitor, Donal Carroll, was in the same traditions of the Court and contrasted with the leniency towards breaches of Judges' Rules and Constitutional Rights by the gardai. Alterations in vital notes made by an experienced detective guard were described as "perfectly innocent" by the three judges. It speaks poorly for the gardai that such carelessness should be present in the work of an experienced sergeant. Clearly all witnesses were not equal in this and other Special Criminal Court trials, and the defence preparation for the case helps confirm this assertion.

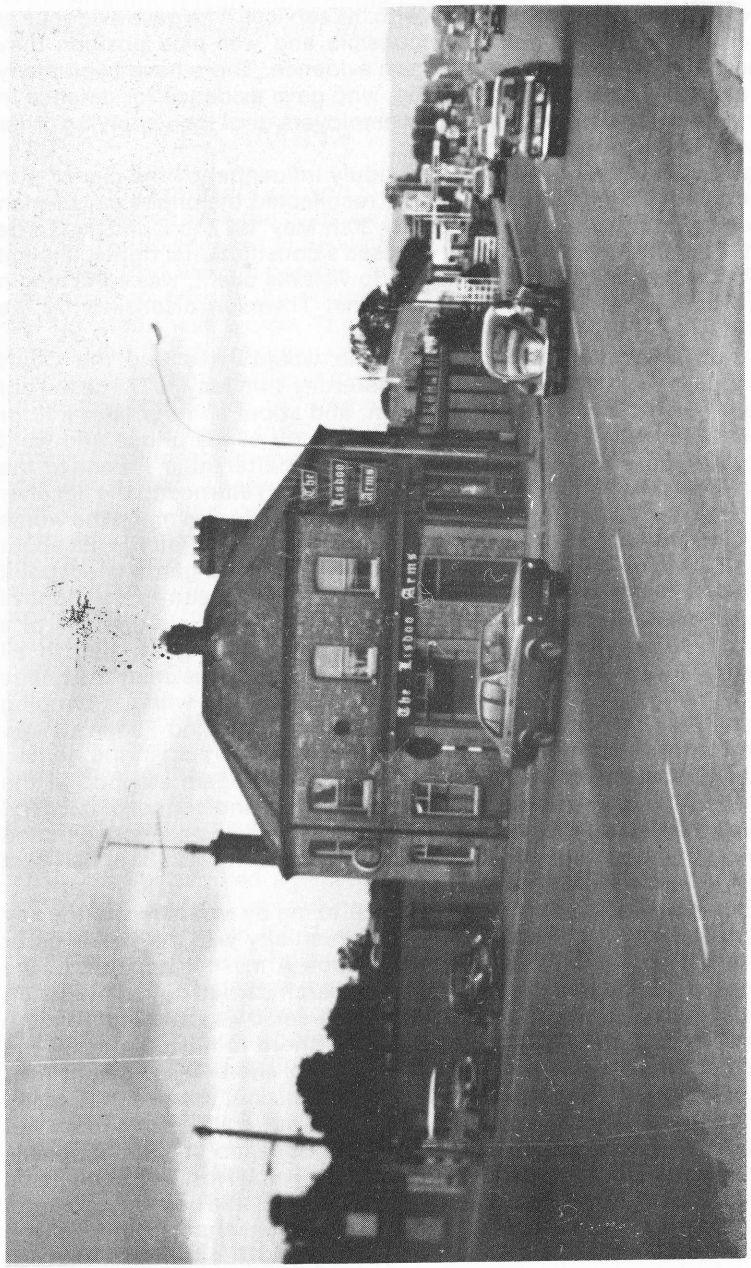
At a defence conference held to decide on the best line of defence, lawyers were told that "**Jim McArdle**", then living in a flat in Dundalk, was prepared to go the the Court and testify that he had driven Liam Townson out to Proleek on the night of Saturday 14th May 1977 at about 1 a.m. On being told that "**McArdle**" had been imprisoned in Northern Ireland during the nineteen-fifties, for republican offences, the alwyers expressed the opinion that the judges of the Special Criminal Court would probably dismiss "**McArdle's**" evidence as being untrue because of his republican

background. The also feared that pressure would be exerted on "**McArdle's**" employers to dispence with his services if he gave evidence at the trial. As "**McArdle**" held a responsible and well-paid position they decided not to avail of his offer to give evidence. There have been many cases of gardai pressure to have men, who gave evidence for defence in similar political trials, sacked by their employers or of their applying other pressures to secure the same end.

It was possible that defence were unduly influential by the clarity with which defence solicitor, Donal Carroll, recollected the phone calls which he made on Sunday 29th and Monday 30th May 1977 to Dundalk Garda Station. The clear violation of the accused's constitutional rights, implicit in his failure to be granted permission to visit his client, was sufficient in defence opinion to have the case against Townson dismissed by the Court.

Had "**Jim McArdle**" given evidence he would have told the Court something on the following lines. "On Saturday 14th May 1977 I called out to Fagan's of Proleek at about 7.30 p.m. and about an hour later left for Dundalk with Liam Townson. I let Townson off at the bridge and went back by my flat in Church Street; some time after nine I went to the Dundalk bar where I remained until closing time. I returned to the flat after twelve and soon after this Liam Townson came in. He was much the worse for drink so I made him tea and drove him out home. We left the flat about 1 a.m. and on the way out joined a queue of cars at a garda checkpoint beside the Lisdoo Arms. A lorry moved from the queue to the control point, and whatever happened the gardai gave the vehicle one heil of a searching. There was what appeared to be a long delay, but, in all probability, it was not more than five minutes. During this delay the queue grew and the gardai waved a number of cars through without stopping them. My car was one of those let through. On reaching Fagan's I saw Townson safely up the stairs and as there was nobody up in the house I went straight home. On the return journey I was again stopped at the Lisdoo checkpoint and was asked to open the boot and bonnet of my car. I did so and the gardai, after taking details from my driving licence searched both these compartments and the inside of the car. It was about half past one when I arrived back at the flat."

This straight forward account was given to me by McArdle and the key factor in reaching a conclusion on its authenticity was the presence or absence of a gardai checkpoint at the Lisdoo Arms. His account of the lorry being detained and the nature of the search carried out on his car on the return journey, add to its credibility. Such detail was missing from the Canavan file and the Kelly statements and there is not doubt that the presence of the gardai checkpoint can be established. These details help to establish Liam Townson's innocence as distinct from a not guilty verdict whith the defence appeared to seek. A not guilty verdict does not necessarily establish an accused persons innocence. In preparing this analysis of the Nairac Affair the availability of all nine Northern statements was a vital factor. I have no doubt that had Mr. McEntee been in a position to use them he would have established a clear conspiracy to pervert the course of justice by Inspector Courtney, Sergeant Canavan and many of the other guards who had given evidence in the case. Counsel would have been in a position to establish, under cross-examination, that the bulk of



"Lisdoo Arms" publichouse showing the junction of the Dundalk/Newry and Dundalk/Armagh City roads. There was a garda checkpoint at this junction on the night of Saturday 14th May 1977. No records of cars passing through this checkpoint were produced at the trial of Liam Townson. Why not?

the prosecution evidence was false and to have established the complete innocence of his client on all counts. Unfortunately he was not in a position to do so, and this treatise may go some way towards opening an enquiry into the trial and the activities of Inspector Courtney and his team. History may in due course place the Judges of the Special Criminal Court in a place along with the hanging Judges of British rule, who did so much to destroy the faith of Irishmen in the "legal process". A critical look at the Canavan File exposes the lack of justice in the verdict. Omissions, when taken in conjunction with factual errors, can do much to expose the underlying motives of the persons responsible for statements. It was the contention of defence Counsel in the Nairac murder trials, in both Dublin and Belfast, that the RUC and Inspector Courtney were the parties responsible for the statements.

1. The first error in the Canavan File was the claim that Liam Townson was collected by Danny Kelly in Leonard's Pub. Early in the Dublin trial it was established the the Accused had left this public house at about 9.30 p.m. and that he had not returned to it that night. He was in fact in the Cabin Inn at the time he was supposed to have been collected by Kelly. Kelly's statement indicated that Townson was standing outside a public house and he did not name the Pub. This may explain why both Courtney and Canavan made a serious error.
2. The Canavan File failed to mention the checkpoint at the Lisdoo Arms. This same omission was made in the Kelly version and was a link in the chain of circumstanantial evidence indicating a tie up in the contents of the Northern statements and those mady by Courtney and Canavan.
3. Both the Canavan File and Kelly's second statement told of a shot being fired out of the back of the Cortina to test the .32 revolver. The shot was alleged to have been fired on the journey from Hughes' public house to Ravensdale. Neither account told the route taken from the Pub to Ravensdale. Neither told at what point on the journey the shot was fired out of the back of the car. Neither told out of which door or window the shot was fired. Small details, maybe, but the type of omission which when missing from both accounts tends to confirm that the "Canavan File" was a mere copy of Kelly's.
4. There was nothing in the "Canavan File" description of events in the field beside the hump-backed bridge which could not have been copied from the Northern statements. There was no evidence which might help show that Nairac was in fact shot in the field. Evidence given in Belfast disclosed that there was no pool of blood found at the spot where the fatal shot was allegedly fired. There were no hairs found at the spot, and no matter from the head which would surely have seeped from the fatal wound during the night.
5. The Quinn and Kelly signed statements told that the Cortina had left the scene before they did but neither told where the Cortina had gone. Neither told how Townson, Allen and Bell got home. The "Canavan File" was equally evasive and vague on this issue. It merely told that Townson said that he had walked home across the fields. Having attempted this journey in daylight I can assure readers that an intoxicated Townson could not have made the trip safely on a fairly dark night.

6. As with all other statements the "Canavan File" did not tell where the body was or how it was disposed of. If these men knew anything about the shooting of Nairac and the burial of his body it is inconceivable that some one of them would not have told about it. The credibility of the "File" took further knocks when it failed to mention by whom and how the guns and ammunition were removed from the field.

Each examination of the "File" confirms it as a shallow, false, document. It fails to stand up to reasoned argument and it exposes the tricks of the trade as practised by Courtney and Canavan. As with so many cases in which these officers were engaged, the crucial admission of guilt was allegedly made when the suspect was being questioned by one or other of the Big Two. As in other cases the Big Two decided not to record the admission, but passed over that task to more junior men who were allegedly known by the victim. On this occasion even the cagey and experienced Big Two erred when they named Guard Crowe as one of the men to record the admission. A visit by a Catholic priest, requested by the prisoner's mother without consulting her son, was skilfully exploited by Inspector Courtney to create the impression of guilt. The widespread publication of the accused's alleged request for a priest so that he could make a "proper Confession" indicated that this line of publicity was effective. The same approach was used by gardai who interrogated a man in Lifford, Co. Donegal. This man, whom I believe to be innocent of all charges preferred against him, is now serving a prison term. The use of Sacramental Confession as a prosecution ploy has not been condemned by any Irish Bishop or Priest. For my part, as a Catholic, the sooner this abnoxious practice ends the better.

The two trials covered in this book illustrate the miscarriage of justice which can occur when the rights of ordinary citizens are brushed aside by politicians and when excessive power is given to judges -- judges who, in the first place, were political appointees themselves. Because of the political nature of the Special Criminal and Diplock Courts (their basic function appears to be the crushing of Irish Nationalism) police engaged in these Courts appear to be above the law and immune from prosecution and conviction. Crimes committed at the time of Internment (1971), by the RUC, (crimes which were confirmed by the European Court) have not resulted in a single prosecution or conviction. In a like manner crimes committed by the Garda "Heavy Squad" in the South have gone unpunished.

On the few occasions with British terrorists and their UVF allies have been convicted in the Special Criminal Court they have been given sentences which were only a fraction of that given to Republicans, or Northern Catholics, for similar offences. The scandal of the case of Guard Crinnion, who sold most secret information to a British spy and who resisted arrest by producing a gun, is a ready example of the double standards of sentencing. Both the spy, Wymann, and Crinnion walked out of the Special Criminal Court free men. The trial of the eight SAS men, arrested close to the spot where Seamus Ludlow had been murdered four days earlier, was another example of double standards. The SAS men, dressed in civilian clothes, carried an assortment of weapons which included, sub-machine guns, pistols, a pump action shot gun, knives, etc. The pistols were the same calibre as the one used to murder Seamus

Ludlow, but they were not tested to ascertain if they had been used in that crime. The cars in which they travelled were not given forensic tests to see if they had been used to transport Ludlow's body after he was killed. The case against the SAS men was put back, and when they eventually stood trial they were let off with fines. The Court took on an appearance of a "Laurel and Hardy" comedy farce when a British Embassy official arrived with bottles of whiskey to celebrate the occasion. Some of the SAS men had been involved in the kidnapping of Sean McKenna in County Louth and in the arrest and killing of Peter Cleary. Afterwards some of these same SAS men took part in the storming of the Iranian Embassy in London, when men, who had already surrendered, were gunned down.

The assassination of the British Ambassador to Dublin, Mr. Ewart Biggs, appears to have been the Provisional IRA reply to the murder of Peter Cleary and other SAS atrocities. Mr. Ewart Biggs had, in his younger days, been attached to British Intelligence, and had taken part in subversive work in Africa. The Provisionals, by assassinating the Ambassador, pinpointed the British Embassy as being the nerve centre for the SAS campaign south of the Border. The presence of members of the Northern Ireland Office Staff in the Ambassadors residence, on the day the Ambassador died, added weight to this viewpoint. The release of the spy Wyman and Crinnon, the light sentences passed on the eight SAS men and the whiskey in Court comedy, further confirmed the influence of the Embassy in the Irish legal set up.

In 1975 a Dutch Industrialist was kidnapped and held prisoner for 38 days. There was an immediate public outcry -- rightly so -- and the culprits were sentenced to lengthy jail terms. Churchmen of all ranks and denominations joined in the chorus of condemnation. Some of these men were asked to help expose the evils in the convictions in the two cases mentioned in this Book, which, in reality, amount to nothing less than State kidnapping. These two kidnap victims have been held prisoner, not just 38 days, but nearly five years. The response of the senior churchmen has been a deafening silence and in this they are in the good company of the controllers of Radio Telefis Eireann and the Irish newspapers. The fact that the two trials covered in this book were allowed to pass without a single adverse comment in the media speaks for itself. Despite this silence the TRUTH will ~~come~~ out and those responsible for its supression will be exposed.

The injustices exposed in this book add a practical dimension to the words spoken, by Pope John Paul II, in Drogheda. They are worth repeating:

"Every human being has inalienable rights that must be respected. Each human community - ethnic, historical, cultural or religious - has rights which must be respected. Peace is threatened every time one of these rights is violated. The moral law, guardian of human rights, protector of the dignity of man, cannot be set aside by an person or group, or by the State itself, for any cause, not even for security or in the interests of law and order. The law of God stands in Judgement over all reasons of State. As long as injustices exist in any of the areas that touch upon the dignity of the human person, be it in the political, social or economic field, be it in the cultural or religious sphere, true peace will not exist. **The causes of inequalities must be identified through a courageous and objective evaluation, and they must be eliminated so that every person can develop and grow in the full measure of his or her humanity.**"

THE TULLYVALLEN ORANCE HALL CASE

On Monday 1st September 1975, there was a meeting of the local Lodge members in Tullyvallen Orange Hall. A number of armed men entered the Hall and an exchange of gunfire followed. Five of the Orangemen were gunned to death and one of the raiders was, by all accounts, seriously injured. No recognised para-military group claimed responsibility for the attack.

On Sunday 24th August 1975, two supporters of the Derry County Gaelic football team, returning from the All Ireland semi-final in Dublin, were stopped at a British army road block and taken from their car and murdered. The army unit in question belonged to the Ulster Defence Regiment and some of the members of the checkpoint unit were members of the Tullyvallen Orange Lodge. There was widespread belief at the time that the attack on the Orange Hall was a direct reprisal for the deaths of the football fans. Nobody has been brought to trial for the murder of these two men and, with the exception of Anthony McCooey, no one has been charged with the Orange Hall deaths.